CHAPTER 1
CODE OF ORDINANCES

1.01 Title. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of Johnston, Iowa, 2007.

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

1. “Alley” means a public right-of-way, other than a street, affording secondary means of access to abutting property.

2. “City” means the City of Johnston, Iowa.

3. “Clerk” means the city clerk of Johnston, 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).


7. “County” means Polk County, Iowa.

8. “May” confers a power.

9. “Measure” means an ordinance, amendment, resolution or motion.

10. “Must” states a requirement.

11. “Occupant” or “tenant,” applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

12. “Ordinances” means the ordinances of the City of Johnston, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.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.
entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

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

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

1.12 WARRANTS. If consent to enter upon or inspect any building, structure or property pursuant to a municipal ordinance is withheld by any person having the lawful right to exclude, the City officer or employee having the duty to enter upon or conduct the inspection may apply to the Iowa District Court in and for the County, pursuant to Section 808.14 of the Code of Iowa, for an administrative search warrant. No owner, operator or occupant or any other person having charge, care or control of any dwelling unit, rooming unit, structure, building or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer or employee.
1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or employee of the City and does not specify standards to govern the exercise of the power, the power shall be exercised in light of the following standard: The discretionary power to grant, deny or revoke any matter shall be considered in light of the facts and circumstances then existing and as may be reasonably foreseeable, and due consideration shall be given to the impact upon the public health, safety and welfare, and the decision shall be that of a reasonably prudent person under similar circumstances in the exercise of the police power.

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by 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, upon conviction, be subject to a fine of not more than five hundred dollars ($500.00) or imprisonment not to exceed thirty (30) days.

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

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CHAPTER 2

CHARTER

2.01 Purpose. The purpose of this chapter is to provide for a charter embodying the form of government existing on August 10, 1972.

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 Council Members elected at large for overlapping terms of four years.

(Code of Iowa, Sec. 376.2)

2.05 Term of Mayor. The Mayor is elected for a term of two years.

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)
CHAPTER 3

MUNICIPAL INFRACTIONS

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

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

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

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

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. §403.8.

2. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person not engaged in the industrial production or manufacturing of grain products.

3. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

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

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

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

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

2. Special Civil Penalties.
   A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than $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 $1,000.00 for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:

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

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

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

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


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

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

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

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

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CHAPTER 5
OPERATING PROCEDURES

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

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

   (Code of Iowa, Sec. 63.1)

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

   (Code of Iowa, Sec. 63.10)

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

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

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

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

1. Required. The Council shall provide by resolution for a surety bond or blanket position bond running to the City and covering the Mayor, Clerk, City Finance Director/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 City Finance Director/Treasurer of the City.

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

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

(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 fifteen hundred dollars ($1500.00) in a fiscal year.

(Code of Iowa, Sec. 362.5[10])
11. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

1. Appointment. By appointment following public notice by the remaining members of the Council 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)
CHAPTER 6
CITY ELECTIONS

6.01 METHOD TO BE USED. All candidates for elective municipal office shall be nominated and elected under the provisions of Chapter 376 of the Code of Iowa. A primary election must be held for offices for which the number of individuals for whom valid petitions are filed is more than twice the number of positions to be filled.

6.02 ELECTION PRECINCTS ESTABLISHED. The City is divided into six election precincts for the purpose of conducting all elections required by the Code of Iowa or City Ordinance.

1. One precinct shall be styled Johnston No. 1 and shall include all that territory encompassed in the City lying east of Merle Hay Road to the Des Moines River and bounded on the south by Beaver Creek and bounded on the north by NW 70 Avenue to NW Beaver Avenue thence following a line eastward that is the extension east, of NW 70th Avenue until the line intersects the Des Moines River.

2. One precinct shall be styled Johnston No. 2 and shall include all that territory encompassed in the City lying west of Merle Hay Road to Beaver Creek and bounded on the south by Beaver Creek and bounded on the north by NW 70th Avenue, including Census Block number 191530114042022.

3. One precinct shall be styled Johnston No. 3 and shall include all that territory encompassed in the City lying east of 86th Street to Beaver Creek and south from NW 62nd Avenue to Interstate 80/35 and also a portion bounded on the east by NW 86th Street and bounded on the west by NW 100th Street and south of a line that is West Boulevard extended in both the easterly and westerly directions to NW 100th Street on the west end and NW 86th Street on the east end to the south corporate limits.

4. One precinct shall be styled Johnston No. 4 and shall include all that territory encompassed in the City lying west of Beaver Creek West to NW 100th Street and south from NW 70th Avenue South to NW 62nd Avenue.

5. One precinct shall be styled Johnston No. 5 and shall include all that territory encompassed in the City lying west of NW 100th Street bounded on the north by the north corporate limits and bounded on the south by the south corporate limits, and a portion of the City lying west of NW 86th Street West to NW 100th Street and lying north of NW 54th Avenue North to NW 62nd Avenue, and a portion of the City lying north of NW 70th Avenue bounded on the west by NW 100th Street and bounded on the east by Beaver Creek.

6. One precinct shall be styled Johnston No. 6 and shall include all that territory encompassed in the City lying north of NW 70th Avenue and north of a line extended due east from the intersection of NW 70th and NW Beaver Drive, bounded on the west by Beaver Creek and bounded on the east by the Des Moines River.

(Ord. 851 – Dec. 11 Supp.)
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 Finance Director/Treasurer 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 Director. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the Finance Director 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)

3. Petty Cash Fund. The Finance Director shall be custodian of a petty cash fund for the payment of small claims for minor purchases, collect-on-delivery transportation charges and small fees customarily paid at the time of rendering a service, for which payments the Finance Director shall obtain some form of receipt or bill acknowledged as paid by the vendor or agent. At such time as the petty cash fund is approaching depletion, the Finance Director shall draw a check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

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. 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])

4. 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])

5. Utility and Enterprise Funds. A surplus in a Utility or Enterprise Fund may be transferred to any other City fund, except the Road Use Tax Fund, 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])

6. 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 Director 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 Director 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 Director 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) or 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 Finance Director 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 Finance Director shall
certify the necessary tax levy for the next fiscal year to the County Auditor and the
County Board of Supervisors. The tax levy certified may be less than, but not more
than, the amount estimated in the proposed budget. Two copies each of the detailed
budget as adopted and of the tax certificate must be transmitted to the County Auditor.

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

4. Administrative Transfers. The Finance Director 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, following Council approval,
signed in accordance with the following, except as provided by subsection 5 hereof.

A. Payroll checks shall be signed by the Finance Director and the Mayor
or City Administrator.
B. Other checks shall be signed by the Finance Director and Mayor or Mayor Pro Tem.

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 Finance Director 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, and bond principal and interest.

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

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

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

## URBAN RENEWAL

**EDITOR'S NOTE**

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.

<table>
<thead>
<tr>
<th>ORDINANCE NO.</th>
<th>ADOPTED</th>
<th>NAME OF AREA</th>
</tr>
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<tbody>
<tr>
<td>438</td>
<td>October 18, 1993</td>
<td>Merle Hay Road, NW Beaver Drive and East/West Corridor TIF Urban Renewal Area</td>
</tr>
<tr>
<td>449</td>
<td>August 1, 1994</td>
<td>Amends Ordinance No. 438</td>
</tr>
<tr>
<td>455</td>
<td>October 17, 1994</td>
<td>Amendment No. 1 Area to the Merle Hay Road, NW Beaver Drive and East/West Corridor TIF Urban Renewal Area</td>
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<tr>
<td>487</td>
<td>August 19, 1996</td>
<td>Beaver Creek West Economic Development Urban Renewal Project Area</td>
</tr>
<tr>
<td>496</td>
<td>January 20, 1997</td>
<td>East Central TIF Urban Renewal Area</td>
</tr>
<tr>
<td>531</td>
<td>December 7, 1998</td>
<td>NW 62&lt;sup&gt;nd&lt;/sup&gt; Avenue Urban Renewal Project Area</td>
</tr>
<tr>
<td>598</td>
<td>February 5, 2001</td>
<td>Amendment No. 1 Area to the NW 62&lt;sup&gt;nd&lt;/sup&gt; Avenue Urban Renewal Project Area</td>
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<tr>
<td>635</td>
<td>December 17, 2001</td>
<td>Amended East Central TIF Urban Renewal Area</td>
</tr>
<tr>
<td>655</td>
<td>September 16, 2002</td>
<td>Windsor Office Park Urban Renewal Area</td>
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<tr>
<td>733</td>
<td>December 19, 2005</td>
<td>Amendment No. 1 Area to the Beaver Creek West Economic Development Urban Renewal Area</td>
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<td>772</td>
<td>October 1, 2007</td>
<td>Amended East Central TIF Urban Renewal Area</td>
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<tr>
<td>778</td>
<td>December 3, 2007</td>
<td>Amendment No. 2 Area to the NW 62&lt;sup&gt;nd&lt;/sup&gt; Avenue Urban Renewal Project Area</td>
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<td>790</td>
<td>October 20, 2008</td>
<td>Amendment No. 2 Area to the Beaver Creek West Economic Development Urban Renewal Area</td>
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<td>791</td>
<td>October 20, 2008</td>
<td>NW 100&lt;sup&gt;th&lt;/sup&gt; Street Urban Renewal Area</td>
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<tr>
<td>833</td>
<td>September 7, 2010</td>
<td>Amended East Central TIF Urban Renewal Area</td>
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<td>847</td>
<td>September 19, 2011</td>
<td>Amendment No. 3 Area to the Beaver Creek West Economic Development Urban Renewal Area</td>
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<tr>
<td>879</td>
<td>April 1, 2013</td>
<td>Amended East Central TIF Urban Renewal Area</td>
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<td>885</td>
<td>July 1, 2013</td>
<td>Amended NW 62&lt;sup&gt;nd&lt;/sup&gt; Avenue Urban Renewal Area</td>
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<tr>
<td>886</td>
<td>July 1, 2013</td>
<td>West Central Urban Renewal Area</td>
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<tr>
<td>924</td>
<td>March 16, 2015</td>
<td>Amended East Central TIF Urban Renewal Area</td>
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<td>929</td>
<td>July 6, 2015</td>
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<td>December 5, 2016</td>
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<td>953</td>
<td>December 5, 2016</td>
<td>Amended Beaver Creek West Economic Development Urban Renewal Area</td>
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CHAPTER 15

MAYOR

15.01 TERM OF OFFICE. The Mayor is elected for a term of two 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 Mayor Pro Tem and the Mayor also shall appoint, with Council approval, the following officials:

(Code of Iowa, Sec. 372.4)

1. Library Board of Trustees
2. Tree Board
3. Park Advisory Board
4. Senior Citizens Advisory Board
5. Comprehensive Plan Advisory Board
6. Mayor’s Youth Council Board
7. Mayor’s Youth Council Advisor
8. Police Chief
9. Zoning Board of Adjustment
10. Building Code Board of Appeals

15.04 COMPENSATION. The salary of the Mayor is $3,600.00 per year. The salary shall be paid in one of the following methods: (i) twelve monthly installments, at the last regular payroll of each month; or (ii) one annual payment, at the last regular payroll in December. If the Mayor wishes to receive one annual payment, such officer shall notify the Clerk in writing prior to January 2.

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

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

(Code of Iowa, Sec. 372.4)
CHAPTER 16

MAYOR PRO TEM

16.01 APPOINTMENT. Immediately after taking office the Mayor shall appoint a member of the Council to serve as Mayor Pro Tem. The Mayor Pro Tem is vice president of the Council.

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

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

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

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

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

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

(Code of Iowa, Sec. 372.13[8])
17.01 NUMBER AND TERM OF COUNCIL. The Council consists of five Council members elected at large for overlapping terms of four years.

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 38.10)

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 14 days after the date of passage, unless a subsequent effective date is provided within the ordinance or amendment.

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

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

(Code of Iowa, Sec. 380.4)
17.04 COUNCIL MEETINGS. Procedures for giving notice of meetings of the Council and other provisions regarding the conduct of Council meetings are contained in Section 5.06 of this Code of Ordinances. Additional particulars relating to Council meetings are the following:

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

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.  
   \textit{(Code of Iowa, Sec. 372.13[5])}

3. Special Council Meeting Fee. A fee of $100.00 shall be imposed on any request for action by the Council at other than a regularly scheduled Council meeting, or a meeting held immediately preceding a regularly scheduled meeting. This fee is in addition to any fee that may be required by the City for the requested action. This fee may not be waived.

4. Quorum. A majority of all Council members is a quorum.  
   \textit{(Code of Iowa, Sec. 372.13[1])}

   \textit{(Code of Iowa, Sec. 372.13[5])}

6. Compelling Attendance. Any three 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 Attorney
3. Planning and Zoning Commission

17.06 COMPENSATION. The salary of each Council member is $1,200.00 per year. The salary shall be paid in one of the following methods: (i) twelve monthly installments, at the last regular payroll of each month; or (ii) one annual payment, at the last regular payroll in December. Any Council member who wishes to receive one annual payment shall notify the Clerk in writing prior to January 2.
CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation. The City Administrator shall appoint a City Clerk to serve at the discretion of the City Administrator. The City Clerk shall receive such compensation as established by resolution of the Council.

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

(Ord. 877 – Oct. 13 Supp.)

18.02 Powers and Duties: General. The Clerk, or in the Clerk’s absence or inability to act, the Clerk’s designee has the powers and duties as provided in this chapter, this Code of Ordinances and the law.

(Ord. 877 – Oct. 13 Supp.)

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 claims.

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

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

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

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

(Code of Iowa, Sec. 376.6)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

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

(Code of Iowa, Sec. 376.4)

5. Deliver all nomination petitions, together with the text of any public measure being submitted by the Council to the electorate, to the County Commissioner of Elections not later than 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 is the word “IOWA” and around the margin of which are the words “CITY OF JOHNSTON” and “OFFICIAL SEAL.”
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CHAPTER 19

CITY FINANCE DIRECTOR/TREASURER

19.01 Appointment. The City Administrator shall appoint a City Finance Director/Treasurer to serve at the discretion of the City Administrator.

19.02 Compensation. The City Finance Director/Treasurer is paid such compensation as specified by resolution of the Council.

19.03 Duties. The duties of the City Finance Director/Treasurer are as follows:

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

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.
2. Record of Fund. Keep the record of each fund separate.
3. Record Receipts. Keep an accurate record of all money or securities received by the City Finance Director/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 City Finance Director/Treasurer from special assessments.
6. Deposit Funds. Upon receipt of moneys to be held in the City Finance Director/Treasurer custody and belonging to the City, deposit the same in depositories selected by the Council.
7. Reconciliation. Reconcile depository statements with the City Finance Director/Treasurer books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.
9. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.
CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation. The Council shall appoint by majority vote a City Attorney to serve at the discretion of the Council. 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. Upon request, 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 Council, Mayor, individual Council members, commissions or boards, heads of municipal departments, or authorized employees.

(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 APPOINTMENT AND TERM. The Council shall appoint by majority vote a City Administrator to serve at the discretion of the Council.

21.02 COMPENSATION. The City Administrator shall receive such annual salary as the Council shall from time to time determine by resolution.

21.03 DUTIES. The duties of the City Administrator are as follows:

1. Supervise enforcement and execution of the City laws.
2. Attend all meeting of the Council unless excused by the Mayor.
3. Recommend to the Council such measures as may be necessary or expedient for the good government and welfare of the City.
4. Have the general supervision and direction of the administration of the City government and its employees, and appoint, with approval of the Council, such administrative assistants as are deemed advisable.
5. Supervise and direct the official conduct of all officers of the City and take control of all City departments except the Police Department. The Administrator shall only have such charge and control of the Police Department as the Mayor may at any time delegate in writing.
6. Supervise the performance of all contracts for work to be done for the City, make all purchases of materials and supplies and see that such material and supplies are received and are of the quality and character called for by the contract.
7. Cooperate with any administrative agency.
8. Provide for and cause records to be kept of the issuance and revocation of licenses and permits authorized by City law.
9. Keep the Council fully advised of the financial and other conditions of the City and of its future needs.
10. Prepare and submit to the Council annually the required budget.
11. Conduct the business affairs of the City and cause accurate records to be kept by modern and efficient accounting methods.
12. Present to the Council, no later than the tenth day of each month, an itemized financial report showing the receipts and disbursements for the preceding month. Copies of financial reports must be available at the Clerk’s office for public distribution.
13. Perform other duties as the Council may direct.
21.04 APPOINTMENTS. The City Administrator shall appoint the following officials:

1. City Clerk
   
   *(Ord. 877 – Oct. 13 Supp.)*

2. City Finance Director/Treasurer
CHAPTER 22
LIBRARY BOARD OF TRUSTEES

22.01 Purpose. The purpose of this chapter is to provide for the establishment of the Johnston Public Library and for the creation and appointment of a City Library Board of Trustees, and to specify that board’s powers and duties.

22.02 Library Trustees. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of five resident members. All members are to be appointed by the Mayor with the approval of the Council.

22.03 Qualifications of Trustees. All members of the Board shall be bona fide citizens and residents of the City. 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 six years, except to fill vacancies. Each term shall commence on July 1. Appointments shall be made every two years of one-third the total number or as near as possible, to stagger the terms.

2. Vacancies. 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. A vacancy occurs when a trustee resigns, ceases to be a resident of the City, or is absent from six consecutive regular meetings of the Board, except in the case of sickness. If sickness is to be an excuse, it must be found by a majority vote of the trustees at the next regular meeting. All vacancies shall be immediately reported by the President of the Board, in writing, to the Mayor.

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, organize and elect from its members a President, Vice President, Secretary, and such other officers as it deems necessary. The term of office shall be for one year, commencing July 1.

2. Meetings. To determine the times and places of their meetings and to determine the powers and duties of the President, Vice President, other officers and the Library Director.

3. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
4. Charge of Affairs. To direct and control all affairs of the Library.

5. Hiring of Personnel. To employ a Library Director and authorize the Library Director to employ such employees as may be necessary for the proper management of the Library, and establish their compensation, within the budget of the Library. All full-time employees shall have the same benefits as other full-time employees of the City, other than their compensation. The Board may, with the concurrence of the Council, grant benefits to regular part-time employees who work more than twenty hours but less than forty hours.

6. Purchases. To authorize the Library Director 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 establish charges for this use.

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. Funds allocated by the Finance Director to the Library’s budget shall be paid out by the Finance Director upon approval by resolution of the Board. The Board may create an administrative revolving fund not to exceed $2,500 for use by the Library Director without prior Board approval. The Library Director shall report all such expenditures separately to the Board at each meeting which report shall then be forwarded to the Finance Director with the Board’s action endorsed therein.

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 City for use and benefit 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 by action against the Council.

(CODE OF IOWA, CH. 661)

12. Record of Proceedings. To keep a record of all of its meetings and the meetings of any subcommittees appointed by the Board. Any contracts or agreements that extend beyond a fiscal year must be approved by the Council before they are valid.

13. Use of Library. To determine the use of the library and lending of the books and other cultural items to residents of the City on such terms and conditions as the Board adopts.

22.06 LIBRARY ACCOUNT. All money appropriated by the Council from the general fund for the operation and maintenance of the Library shall be set aside in an account for the Library. Expenditures shall be paid for only on orders of the Board, signed by its president or the president’s representative. The warrant writing officer is the Finance Director.
22.07 **ANNUAL REPORT.** The Board shall make a report to the Council within sixty (60) days after the close of the fiscal year. This report shall contain statements as to the condition of the Library, the number of books and other cultural items 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.

22.08 **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)

22.09 **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)

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

(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)

22.11 **FINES.** Any person who fails to return any books, equipment, materials or other Library items when due, after written notice by the Library directed to the address upon the Library card or other lending agreement, shall be fined according to the policies set forth by the Library Board. The Board is further authorized to seek recovery from any person having custody of Library books, pamphlets, magazines, periodicals, papers, maps, journals, tapes and other cultural items that are damaged or destroyed.
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23.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of seven members appointed by the Council. The Commission members shall be residents of the City and 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 five years. The terms of not more than one-third of the members will expire in any one year. Each term shall commence on July 1.

(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. 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)

5. Comprehensive Plan. The Commission shall review development trends and make recommendations for amendment to or additions to the Comprehensive Plan for the planned, orderly and efficient growth of Johnston in all aspects as it affects the ultimate health, safety and well-being of the City. In carrying out these duties related to the Comprehensive Plan, the Mayor and City Council may elect to appoint additional temporary ad hoc/advisory members to the commission to increase input and public involvement into the process. In developing and modifying the plan, the Commission shall consider the following:

A. The present conditions of the City and the future growth potential;
B. The effect on neighboring cities, school system, and Polk County;
C. Existing and future social, economic and physical conditions;
D. Present and future land uses, street systems, recreational needs, public and private utility systems, housing, open space and flood plain areas.

The plan shall have the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the City and its environs which will, in accordance with present and future needs, best protect the health, safety, morals, order, convenience, prosperity and general welfare, as well as efficiency and economy in the process of development.

6. To recommend to the Council, from time to time, adjustments, supplements, changes or modifications to the comprehensive development plan.

7. To receive from the Council changed, different or altered City goals and objectives and to report to the Council, within a reasonable time, the Board’s recommendations of how best to implement these changed, different or altered goals and objectives.

8. To study trends of development of physical and social aspects of the City and make such reports as it may deem necessary.

9. To obtain, through surveys, public meetings and hearings and consultations with boards and committees of the City, their views with respect to the comprehensive development of the City.

(Ord. 866 – Aug. 12 Supp.)

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CHAPTER 24

PARK ADVISORY BOARD

24.01 PARK ADVISORY BOARD CREATED. The purpose of this chapter is to create a Park Advisory Board with general responsibilities to advise the Council on matters concerning the design, development, maintenance and operation of parks, playgrounds and open space and greenbelt areas in the City.

24.02 BOARD ORGANIZATION. The Board shall consist of seven members, appointed by the Mayor with the approval of the Council, for overlapping terms of three years. Each term shall commence on July 1. If any Board member fails to attend three out of five consecutive regular meetings, such member shall be considered removed from the Board and may only be reinstated by action of the Mayor with approval of the Council. Any vacancy occurring on the Board shall be filled for the unexpired term of the vacating member in the same manner as the original appointment. Each appointee shall serve until a successor is named and qualifies. At the first meeting of each calendar year the Board shall elect one of its members as Chairperson and one as Vice Chairperson. All members of the Board shall serve without compensation except for reimbursement for actual expenses.

24.03 BOARD MEETINGS. The meetings of the Board shall be considered open public meetings and held at the call of the Chairperson or upon request of the Council. The Board shall keep minutes of its proceedings, which shall be a matter of public record. The presence of four members shall be necessary to constitute a quorum.

24.04 POWERS AND DUTIES OF THE BOARD. The Park Advisory Board shall have and possess the following powers and duties:

1. Advise the Council on the location, design, development and operation of parks and recreation facilities.
2. Create subcommittees to study specific problems in the areas of recreation, parks and open space.
3. Advise the City on future park and recreation needs for inclusion in land use and capital improvements programs through input to the Planning and Zoning Commission, Comprehensive Plan Advisory Board and the City Council.
4. Conduct public forums, assist neighborhoods and advise consultants and the City on the development of neighborhood, community and regional parks for Council approval.
5. Recommend to the Council any rules or regulations necessary for the regulation of parks, greenbelt areas and open space areas.
6. Recommend to the Mayor and Council ideas for coordination of recreation programs and development of parks, open space and greenbelt areas with other public and private agencies or corporations.
7. Recommend to the Council annual capital improvements concerning park, greenbelt and open space developments.

8. Review the City Comprehensive Plan to assure that the plan adequately addresses the City’s future need for parks, greenbelts and open space areas.

9. Undertake any special studies that are in the areas of the Board’s responsibilities or related areas, as requested by the Council.

10. Recommend to the Mayor and Council names for new and/or existing parks, renaming of parks, naming sections or trails or trail systems as considered and discussed by the Park Advisory Board at a regular meeting of the Board, with or without public input.

The City Administrator shall provide administrative staff, make recommendations to the Board, and provide a secretary for recording purposes to permit the Board to fulfill its duties.

24.05 LIMITATIONS. The Park Advisory Board makes recommendations only and is not empowered to stop any action of the City or to enact any legislation or policy of the City.

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CHAPTER 25
TREE BOARD

25.01 TREE BOARD ESTABLISHED. There is hereby created and established a Tree Board for the City, which consists of seven members, appointed by the Mayor with the approval of the Council for staggered three-year terms. Each term shall commence on July 1. Vacancies on the Board shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

25.02 COMPENSATION. Members of the Board shall serve without compensation.

25.03 AUTHORITY. The Tree Board shall have the authority to establish certain guidelines for the care, preservation, trimming, planting, replanting, removal, or disposal of trees and other landscape plantings within street rights-of-way, parks and public places to ensure safety and to preserve and enhance the aesthetics of such public places. The guidelines developed by the Tree Board will be presented to the City Council and upon acceptance and approval shall constitute the official guidelines for the City. The Tree Board, when requested by the Council or as needed, shall review and update these guidelines and make findings and recommendations to the Council for their consideration. Should a dispute regarding the applicability of the guidelines to a particular situation arise, the aggrieved party shall have thirty days to appeal the decision of the Tree Board to the Council.

25.04 TREE LIST. The Tree Board shall maintain a list of desirable trees for planting as well as a list of trees not desirable for planting.

25.05 ROLE. The Tree Board shall serve as an advisory resource for City officials and staff, and for the community at large, by providing information, education, recommendations and support to promote practices which will lead to a healthy urban forest (both public and private) and desirable public landscaping throughout the City. To such ends, the Board may undertake activities such as the Residential Tree Program, Invasive Species Removal work days, and educational programs for the community.

(Ord. 862 – Aug. 12 Supp.)
CHAPTER 26
SENIOR CITIZENS ADVISORY BOARD

26.01 BOARD CREATED. There is created a Senior Citizens Advisory Board, composed of nine residents of the City, none of whom hold any elective position in the City. The members are appointed by the Mayor and approved by the Council.

26.02 TERM OF OFFICE. Members are appointed for staggered terms of three years. There will be three terms expiring each year on June 30. Each term will commence on July 1. Any vacancy occurring on the Board shall be filled in the manner of the original appointment for the unexpired term. Failure to attend two-thirds of the official Board meetings per year, without a specific excuse, shall constitute resignation by the member of the Board. All members of the Board shall serve without compensation except for their actual expenses, which shall be subject to the approval of the Council. The Board shall choose annually at its first regular meeting one of its members to act as Chairperson, another as Vice Chairperson and another as Secretary. Each appointee shall serve until his or her successor is named and qualifies.

(Ord. 868 – Aug. 12 Supp.)

26.03 MEETINGS. The meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board or the Council may determine. All meetings shall be open to the public, and the Board shall keep minutes of its proceedings, which shall be a public record. The presence of five members shall be necessary to constitute a quorum.

26.04 POWERS. The Board shall have and possess the following powers and such other powers as may be incidental to the successful carrying out of the powers vested in the Board in this chapter or such other powers as may be expressly conferred upon the Board by law.

1. To make any surveys and studies of senior citizens' concerns in the City, which the Board deems necessary.
2. To conduct public informational meetings and to encourage voluntary efforts by the public to help serve senior citizens.
3. To recommend to the Mayor and Council any policies or actions needed to serve the senior citizens in the City.
4. To recommend to the Mayor and Council any policies or actions needed to serve the senior citizens in the City.
5. To recommend to the Council possible delegates to regional boards, commissions or task forces and to otherwise encourage an approach to helping senior citizens which is coordinated with other public and private entities operating in the central Iowa region.
6. To set up and appoint any subcommittee necessary to achieve Board goals.
7. To recommend a budget to the Council for the actual expenses of the Board.
8. To make periodic reports to the Mayor or Council regarding the activities of the Board.

9. To perform such other duties as assigned by the Mayor or Council.

(Subsections 1, 2, 4, 6 & 7 - Ord. 827 – Aug. 10 Supp.)

26.05 LIMITATIONS. The Board makes recommendations only and is not empowered to stop any action of the City or to enact any legislation or policy of the City. Funding for any program or other action of the Board requires specific approval by resolution of the Council.
CHAPTER 27

COMPREHENSIVE PLAN ADVISORY BOARD

(Ch. 27 Repealed by Ord. 866 – Aug. 12 Supp.)
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CHAPTER 28
MAYOR’S YOUTH COUNCIL BOARD

28.01 COMPOSITION OF BOARD. The Mayor’s Youth Council shall consist of nine (9) to fifteen (15) representatives appointed by the Mayor, with the assistance of the Mayor’s Youth Council Advisor, also appointed by the Mayor. The Youth Council Advisor shall recommend students that create a gender balance within the Youth Council and represent the diversity of the student population. The Youth Council shall consist of a balanced representation of middle and high school students. The term of service for each representative shall be as follows:

1. Initial Appointments at Inception of the Youth Council.
   A. Six (6) high school students, four (4) of whom shall be eligible for reappointment.
   B. Three (3) middle school students, one (1) of whom shall be eligible for reappointment.

2. Subsequent Appointments to the Youth Council. All individuals receiving an appointment to the Youth Council, other than those serving an initial appointment, shall serve a term of one (1) year and shall be eligible for appointment to additional terms, as approved by the Mayor.

All appointments and reappointments shall be presented to the City Council for final approval. The City Council shall authorize any finances needed for the effective operation of the Youth Council, as requested by the Youth Council and recommended by the City Administrator.

28.02 ORGANIZATION. The Mayor’s Youth Council shall organize as a board, with the election of a chairperson, vice-chairperson and recorder. The responsibilities of the Youth Council’s officers shall be as follows:

1. Responsibility and Authority of the Mayor’s Youth Council Chairperson.
   A. To plan and conduct all Youth Council meetings.
   B. To carry out the decisions of the Youth Council.
   C. To meet periodically with the Youth Council Advisor to coordinate between City Council and the Youth Council.
   D. To propose to the Youth Council plans and projects designed to assist in the fulfillment of the purposes of the Youth Council.
   E. To assign each Youth Council member areas of responsibility.

2. Responsibility and Authority of the Mayor’s Youth Council Vice-Chairperson. To perform the duties of the Youth Council’s Chairperson during the Chairperson’s absence.

3. Responsibility and Authority of the Mayor’s Youth Council Recorder.
A. To attend all Youth Council meetings and take and maintain minutes of said meetings.
B. To carry out assignments of the Youth Council.
C. To submit a year-end report to the Mayor and City Council.

In addition, the Mayor’s Youth Council shall have at least one advisor. The advisor shall attend meetings and become involved, in an advisory role, in all Youth Council activities.

**28.03 DUTIES.**

1. It is the duty of the Mayor’s Youth Council to:
   A. Meet regularly to conduct business.
   B. Nominate one of its members as a Chairperson with final approval of the Mayor.
   C. Nominate one of its members as a Vice-Chairperson with final approval of the Mayor.
   D. Nominate one of its members as a Recorder with final approval of the Mayor.
   E. Pass motions and resolutions as necessary by a majority vote. A majority vote is one vote more than half the quorum of voting members who are present.
   F. Carry out the purpose of the Mayor’s Youth Council as outlined in this chapter.
   G. Develop and plan activities for the youth of the community, coordinating all such activities with the Mayor and the Youth Council Advisor.
   H. Report to the City Council.

2. The Mayor’s Youth Council must:
   A. Have a quorum in order to conduct business. A majority of the total number of members will constitute a quorum. Without a quorum, no business will be transacted and no official action on any matter will take place.
   B. Publicly post agendas of all Youth Council meetings at least two (2) days in advance of each meeting.
   C. Coordinate all activities with the Youth Council Advisor and the Mayor.

**28.04 REQUIREMENTS.** In order to serve on the Mayor’s Youth Council, a youth must be a resident within the City for at least one year and be in at least the sixth grade. In order to remain on the Youth Council, a youth must remain a resident within the City, attend at least 75% of all Youth Council meetings, maintain at least a 2.0 grade point average if in school, fulfill the responsibilities of the office held, and set a proper example for the youth of the community. A member of the Youth Council can be removed from office upon violation of one or more of the criteria and by a majority vote of the Mayor’s Youth Council, with the final approval of the Mayor and City Council. Any vacancy on the Youth Council, either by removal or resignation, shall be filled by the appointment of the Mayor, with final approval by
the City Council. The requirements of the members of the Mayor’s Youth Council shall be as follows:

1. To attend Youth Council meetings.
2. To carry out assignments of the Youth Council.
3. To meet by appointment with the staff of the City in an effort to accomplish the purpose of the Youth Council.
4. To develop and plan, with the help of a committee, such activities as support the mission and purpose of the Youth Council.
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CHAPTER 30

POLICE DEPARTMENT

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 Police Chief Appointed. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council.

(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)*)

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CHAPTER 35
FIRE DEPARTMENT

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

(Code of Iowa, Sec. 364.16)

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

(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 meet the minimum training standards established by the State Fire Marshal and attend and actively participate in regular or special training drills or programs as directed by the Fire Chief.

(Code of Iowa, Sec. 100B.2[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 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 $200,000 has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal’s Division immediately. For all other fires causing an estimated damage of $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.

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

35.08 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.

35.09 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)

35.10 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)

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

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

35.12 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])

35.13 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)

35.14 EMERGENCY AMBULANCE SERVICE. The department is authorized to provide emergency ambulance or rescue services, and the accidental injury and liability insurance provided for herein shall include such operation. The Council shall establish, by resolution, fees and charges for use of the emergency ambulance service. All such fees and charges are due upon presentation of a statement therefor and shall be paid to the City. Actions for collection of same shall be brought in the name of the City and in the same manner as other actions of law.
[The next page is 185]
CHAPTER 40
PUBLIC PEACE

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

1. Pain or Injury. Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.
   (Code of Iowa, Sec. 708.1 [1])

2. Threat of Pain or Injury. Any act which is intended to place another in fear of immediate physical contact which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
   (Code of Iowa, Sec. 708.1 [2])

However, where the person doing any of the above enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk or serious injury or breach of the peace, the act is not an assault. Provided, where the person doing any of the above enumerated acts is employed by a school district or accredited nonpublic school, or is an area education agency staff member who provides services to a school or school district, and intervenes in a fight or physical struggle, or other disruptive situation that takes place in the presence of the employee or staff member performing employment duties in a school building, on school grounds or at an official school function regardless of the location, the act is not an assault, whether the fight or physical struggle or other disruptive situation is between students or other individuals if the degree and the force of the intervention is reasonably necessary to restore order and to protect the safety of those assembled.
   (Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

   A. Communicates with another by telephone, telegraph, writing or via electronic communication without legitimate purpose and in a manner likely to cause the other person annoyance or harm.
      (Code of Iowa, Sec. 708.7)

   B. Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupied by the other person.
      (Code of Iowa, Sec. 708.7)
C. Orders merchandise or services in the name of another, or to be delivered to another, without such other person’s knowledge or consent.

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 723.4 [7])
8. **Funeral or Memorial Service.** Within 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:

   A. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.

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

   C. Disturb or disrupt the funeral, memorial service, funeral procession or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession or burial.

   This subsection applies to conduct within 60 minutes preceding, during and within 60 minutes after a funeral, memorial service, funeral procession or burial.

   *(Code of Iowa, Sec. 723.5)*

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

   *(Code of Iowa, Sec. 723.2)*

**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 PANHANDLING.**

1. **Definitions.**

   A. "Panhandling," for the purpose of this section, is any solicitation made in person requesting an immediate donation of money or other thing of value. Purchase of an item for an amount far exceeding its value, under circumstances where a reasonable person would understand that the purchase is in substance a donation, is a donation for the purpose of this section. However, panhandling does not include passively standing or sitting with a sign or other indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person, as long as said individual maintains the distance set forth in 40.06(1)(B).

   B. "Merle Hay Road, NW 86th Street and Ramp Terminal Zones," for the purpose of this section, means an area in the City of Johnston, Iowa and Polk County, Iowa comprised of the following: (i) Ramp Terminal Zones are the off ramp terminals located where Interstate 35-80 exits to and intersects with Merle Hay Road and where Interstate 35-80 exits to and intersects with NW 86th Street, which would include the entire off ramp paved surface and the additional area consisting of sixteen (16) feet from the edge of the paved surface; (ii) Merle Hay Road Zone is the area one hundred fifty (150) feet north and south of the Ramp Terminal Zone (area where Interstate 35-80
intersects with Merle Hay Road) which would include the entire paved surface of Merle Hay Road and the additional area consisting of twelve (12) feet from the edge of the paved surface; and (iii) NW 86th Street Zone means the area in the City of Johnston, Iowa one hundred fifty (150) feet north and south of the Ramp Terminal Zone (area where Interstate 35-80 intersects with NW 86th Street) which would include the entire paved surface of NW 86th Street and the additional area consisting of twelve (12) feet from the edge of the paved surface.

C. “Person” means and includes both individual persons and organizations.

2. Place of Panhandling. It shall be unlawful for any person to panhandle when the person solicited is in any of the following places within the City limits of Johnston, Iowa or other areas specifically set forth below:

   A. In any vehicle on the street;
   B. On public property in the “Merle Hay Road, NW 86th Street and Ramp Terminal Zones,” as defined in Section 40.06(1)(B).

3. Manner of Panhandling. It shall be unlawful for any person to panhandle in any of the following manners:

   A. By blocking the path of the person solicited along a street;
   B. By using profane or abusive language, either during the solicitation or following a refusal;
   C. By panhandling in a group of two or more persons;
   D. While under the influence of alcohol or any illegal narcotic or controlled substance; or
   E. By any statement, gesture, or other communication which a reasonable person in the situation of the person solicited would perceive to be a threat.

(Ord. 809 – Sep. 09 Supp.)
CHAPTER 41
PUBLIC HEALTH AND SAFETY

41.01 DISTRIBUTING DANGEROUS SUBSTANCES. No person shall distribute samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.
(Code of Iowa, Sec. 727.1)

41.02 FALSE REPORTS TO OR COMMUNICATIONS WITH PUBLIC SAFETY ENTITIES. No person shall do any of the following:
(Code of Iowa, Sec. 718.6)

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

41.03 REFUSING TO ASSIST OFFICER. Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. No person shall unreasonably and without lawful cause, refuse or neglect to render assistance when so requested.
(Code of Iowa, Sec. 719.2)

41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer’s or employee’s duty.
(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, or shall knowingly resist or obstruct the service or execution by any authorized person...
of any civil or criminal process or order of any court. The terms “resist” and “obstruct” as
used in this section do not include verbal harassment unless the verbal harassment is
accompanied by a present ability and apparent intention to execute a verbal threat physically.
(Code of Iowa, Sec. 719.1)

41.06 ABANDONED OR UNATTENDED REFRIGERATORS. No person shall
abandon or otherwise leave unattended any refrigerator, ice box, or similar container, with
doors that may become locked, outside of buildings and accessible to children, nor shall any
person allow any such refrigerator, ice box, or similar container, to remain outside of buildings
on premises in the person’s possession or control, abandoned or unattended and so accessible
to children.
(Code of Iowa, Sec. 727.3)

41.07 ANTENNA AND RADIO WIRES. It is unlawful for a person to allow antenna
wires, antenna supports, radio wires or television wires to exist over any street, alley, highway,
sidewalk, public way, public ground or public building without written consent of the Council.
(Code of Iowa, Sec. 364.12 [2])

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

41.09 DISCHARGING WEAPONS.
1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols,
guns or other firearms of any kind within the City limits except by written consent of
the Council. The provisions of this subsection do not apply to a qualified peace officer
in the discharge of official duties, military personnel in the discharge of official duties
within the boundaries of Camp Dodge, or to personnel or patrons of indoor shooting
ranges, as allowed by chapter 172.03.12 of the City of Johnston Code of Ordinances.
(Ord. 908 – June 15 Supp.)
2. No person shall intentionally discharge a firearm in a reckless manner.

41.10 THROWING AND SHOOTING. It is unlawful for a person to throw stones, bricks
or missiles of any kind or to shoot paintballs, rubber guns, slingshots, air rifles, BB guns or
other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public
way, public ground or public building.
(Code of Iowa, Sec. 364.12 [2])

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

41.12 FIREWORKS. The sale, use or exploding of fireworks within the City is subject to
the following:
1. Definitions. For the purposes of this section:
A. Consumer fireworks means those fireworks, as defined by SF489, that may be sold within the City of Johnston regardless of whether the use of those items is prohibited.

B. “First-class consumer fireworks” means the following consumer fireworks, as described in APA (American Pyrotechnics Association) standard 87-1, chapter 3:

1. Aerial shell kits and reloadable tubes.
2. Chasers.
3. Helicopter and aerial spinners.
4. Firecrackers.
5. Mine and shell devices.
6. Missile type rockets.
7. Roman Candles
8. Skyrockets and bottle rockets.
9. Multiple tube devices under this paragraph "b" that are manufactured in accordance with APA 87-1, section 3.5.

C. “Second-class consumer fireworks” means the following consumer fireworks, as described in APA standard 87-1, chapter 3:

1. Cone fountains.
2. Cylindrical fountains.
3. Fitter sparklers.
4. Ground and hand-held sparkling devices that are manufactured in accordance with APA 87-1, section 3.5.
5. Ground spinners.
6. Illuminating torches.
7. Toy smoke devices that are not classified as novelties pursuant to APA standard 87-1, section 3.2.
8. Wheels.
9. Wire or dipped sparklers that are not classified as novelties pursuant to APA standard 87-1, section 3.2.

D. “Display fireworks” includes any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and includes fireworks containing any explosive or flammable compound, or other device containing any explosive substance. “Display fireworks’ does not include novelties or consumer fireworks enumerated in APA standard 87-1, section 3.

E. “Novelties” includes all novelties enumerated in APA standard 87-1, section 3 and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

(Code of Iowa, Sec. 727.2)
2. Regulations.
   
   A. The City of Johnston deems the use of consumer fireworks as a threat to public safety and a nuisance to residents and property owners and therefore prohibits the use of consumer fireworks.

   B. The sale of consumer fireworks shall be regulated by the State Fire Marshal (SFM) who shall establish dates of permitted sales, the minimum requirements for obtaining a consumer fireworks seller license, and shall issue such licenses.

   (1) It shall be unlawful without a state issued license and a city issued Certificate of Zoning Compliance for any person to offer for sale, consumer fireworks within the corporate limits of the city.

   (2) Consumer fireworks sales facilities shall conform to the applicable requirements of the National Fire Protection Association 1124, Code for the Manufacture, Transportation, Storage, and Retail Sales of Fireworks and Pyrotechnic Articles, 2006 Edition, as well as, Chapters 155, 159, and 165 to 173 of the City of Johnston Code of Ordinances.

   (3) Sales from permanent structures as defined by the SFM shall be allowed between June 1 and July 8 and between December 10 and January 3 each year, all dates inclusive.

   (4) Sales from temporary structures as defined by the SFM shall be allowed between June 13 and July 8 each year, both dates inclusive.

   (5) A retailer or community group to be issued a license pursuant to this section must provide proof of and maintain commercial general liability insurance with minimum per occurrence coverage of at least one million dollars and aggregate coverage of at least two million dollars.

   C. The sale and use of Novelties known as snappers, party poppers, glow worms, snakes, toy smoke devices and sparklers are permitted at all times.

   D. The city may, upon application in writing, grant a permit for the use of display fireworks by a city agency, fair association, amusement park and other organizations or groups of individuals approved by city authorities when such fireworks display will be handled by a competent, licensed operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

   (1) Personal Injury: $250,000 per person.

   (2) Property Damage: $50,000

   (3) Total Exposure: $1,000,000

   (Code of Iowa, Sec. 727.2, 461A.42)

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

(Code of Iowa, Sec. 727.2, 100.19, 100.19A)

(Ord. 979 – Nov. 17 Supp.)

41.13 SHOOTING OF BOWS AND ARROWS.

1. For the purpose of this section “shooting a bow and arrow” means to place the notch of the arrow in the string of a bow or any other object and to release the arrow in such fashion that when the string is pulled or made taut and released, the arrow thrusts or shoots.

2. It is unlawful for a person to shoot a bow and arrow within the City limits except for:

   A. A person participating in a supervised program of physical education or competitive sports in a public or private school.

   B. A person shooting a bow and arrow at a public or private lane or range that has been certified by the Archery Lane Operators Association or the National Field Archery Association.

   C. A person participating in a tournament which either: (i) has been approved by the City Administrator at least one week prior to the time of the tournament and tournament rules have been submitted to the Administrator; or (ii) is conducted at a licensed lane or range.

   D. A person shooting a bow and arrow in the Johnston Special Deer Management Zone, as designated by resolution of the Council, for the purpose of hunting and shooting of antlerless deer on dates designated by the Iowa Department of Natural Resources, provided such person shall:

      (1) Pass a bow hunting proficiency test approved by the DNR or by resolution of the Council with a score of at least 80 based upon a total score of 100.

      (2) Be at least eighteen years of age, possess and carry a valid deer hunting license and comply with all rules and regulations of the DNR.

      (3) Obtain written permission from any private property owner within the zone and carry such permission at all times while hunting.

      (4) Possess at all times a valid zone map of the area being hunted.

      (5) Take all shots from an elevated stand and shoot no further than 25 yards. An elevated stand means a minimum height of at least six (6) vertical feet off the ground in an artificial or erected stand, or a natural growth, to ensure that the hunter’s body is not in contact with the ground and ensure a downward thrust of the arrow released by bow hunter.

      (6) Not shoot an arrow within 300 feet of the property line of any school or any day care licensed and/or registered in the state of Iowa.

      (7) Not shoot an arrow within 100 feet of any recreation trail, bicycle path, street or road. All hunters must position themselves
with their backs toward the recreation trail, bicycle path, street or road so all shots are in the opposite direction of the recreation trail, bicycle path, street or road.

(Ord. 815 – Mar. 10 Supp.)

(8) Hunters cannot hunt within 200 feet (66.6 yards) from a home or building except when hunting on their own property while adhering to the distance requirement from a home or building of adjoining property owners or except when a property owner waives the distance requirement in a written statement filed with the City.

(9) Recover and remove all deer carcasses shot and either donate the carcasses to a charity or process them in accordance with applicable Federal and State rules and regulations.

(10) The hunter and property owner or manager must sign a release and hold harmless statement indemnifying the City from any lawsuit or action brought against the City for all activities associated with the deer hunting program.

(11) Pass a bow hunter safety course approved by the Iowa Department of Natural Resources or approved equivalent.

(Ord. 947 – Nov. 16 Supp.)

The City will participate in the Buck Incentive Program as recommended by the Polk County Deer Task Force and administered by the DNR and the Polk County Deer Task Force. Hunters shall also abide by all of the rules and regulations established for the Buck Incentive Program.

E. Persons, with permission of the owner or tenant of the premises, may engage in shooting or discharging a bow and arrow on private property for the purpose of target practice subject to the following conditions:

(1) The person(s) engaged in target practice must pass a bow hunter safety course approved by the Iowa Department of Natural Resources or approved equivalent.

(2) The person(s) engaged in target practice must be 18 years or older. Individuals from 12-17 years old may engage in target practice under the supervision of a responsible adult who has passed a bow hunting safety course.

(3) The person(s) engaged in target practice must notify adjoining property owners or residents that are in the direction in which the arrow will travel of their intent to engage in target practice.

(4) The arrow does not travel beyond the boundaries of the private property.

(5) Arrows must be shot toward a backstop of sufficient size and substance that the arrow will not pass through or beyond the backstop.

(Ord. 947 – Nov. 16 Supp.)
41.14 TRAPPING. No person shall set or use a steel or claw trap outside of any structure or building or on any City-owned property, including City Parks, for the purpose of taking, killing, maiming, wounding, ensnaring, trapping or capturing an animal or which is injurious to persons or animals except for the following:

1. Any box trap or other trap which complies with State law, designed to keep the animal alive and unharmed in the trap.
2. Any trap designed for the primary use of capturing mice, rats, gophers, moles or aquatic rodents which are trapped in water.
3. Any trapping by a governmental unit to capture animals which are creating a public nuisance or for the protection of public or private property.

(Ord. 854 – Aug. 12 Supp.)

41.15 FEEDING OF DEER PROHIBITED.

1. Residents are prohibited from overtly and intentionally feeding deer for the following reasons:

   A. There is an increased risk of spreading disease among the herd when the deer are concentrated in one place through purposeful feeding, by promoting contact between a sick animal and a higher number of healthy animals.
   B. An increased chance to expose self, family, or pets to deer ticks that carry Lyme Disease (Borrelia burgdorferi).
   C. Reduced fear of humans, leading to increased property damage, car/deer accidents, and other concerns.

2. Prohibition.

   A. No person may place or allow any device or any fruit, grain, mineral, plant, salt, vegetable, or other material to be placed outdoors on any public or private property for the purpose of attracting or feeding deer.
   B. Each property owner or occupant of the property shall have the duty to remove any materials placed on the owner’s property in violation of this section. Failure to remove such materials within twenty-four (24) hours after notice from the City shall constitute a violation of this section.
   C. Each property owner or occupant of the property shall have the duty to remove any device placed on the owner’s property to which deer are attracted or from which deer actually feed. Alternatively, a property owner or occupant may modify such a device or make other changes to the property that prevent deer from having access to or feeding from the device. Failure to remove such a device or to make such modifications within twenty-four (24) hours after notice from the City shall constitute a violation of this section.

3. Rebuttable Presumption. There is a rebuttable presumption that the placement of fruit, grain, mineral, plant, salt, vegetable, or other materials in a drop feeder, deer feeder kit, automatic feeder, or similar device regardless of the height of the fruit, grain, mineral, plant, salt, vegetable, or other material is for the purpose of feeding deer.
4. Exceptions.
   A. Naturally Growing Materials. This section does not apply to naturally growing materials, including but not limited to fruit, grain, nuts, seeds, and vegetables.
   B. Planted Materials. This section does not apply to planted materials growing in gardens, as standing crops, or in a wildlife food plot.
   C. Stored Crops. This section does not apply to stored crops, provided that the stored crop is not intentionally made available to deer.
   D. Incidental Spills. This section does not apply to spills of seed materials intended for planting or to crop materials that have been harvested if the spills are incidental to normal agricultural operations and such materials are not intentionally made available to deer.

5. Fine/Penalties. Any resident that violates Section 41.15 Feeding of Deer, shall be guilty of a municipal infraction and subject to fines and penalties as set forth in Chapter 3, Municipal Infractions, of this Code of Ordinances.

(Ord. 816 – Mar. 10 Supp.)
CHAPTER 42
PUBLIC AND PRIVATE PROPERTY

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)
42.03 **DEFACING PROCLAMATIONS OR NOTICES.** It is unlawful for a person intentionally to deface, obliterate, tear down, or destroy in whole or in part, any transcript or extract from or of any law of the United States or the State, or any proclamation, advertisement or notification, set up at any place within the City by authority of the law or by order of any court, during the time for which the same is to remain set up.

   *(Code of Iowa, Sec. 716.1)*

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

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

   *(Code of Iowa, Sec. 714.8)*

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

   *(Code of Iowa, Sec. 714.1)*
CHAPTER 43
DRUG PARAPHERNALIA

43.01 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.

43.02 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.

43.03 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.

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.

43.04 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.


43.05 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 Substances Act, Chapter 124 of the Code of Iowa.

43.06 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.
CHAPTER 44
RESIDENCY RESTRICTIONS FOR SEX OFFENDERS

44.01 PURPOSE. This chapter is a regulatory measure aimed at protecting the health and safety of children in Johnston from the risk that convicted sex offenders may reoffend in locations close to their residences. As recognized by the Eighth Circuit United States Court of Appeals in its April 29, 2005, decision of Doe v. Miller, and as recognized by the Iowa Supreme Court in State v. Seering, decided on July 29, 2005, the City finds and declares that sex offenders are a serious threat to public safety. When convicted sex offenders reenter society, they are much more likely than any other type of offender to be re-arrested for a new rape or sexual assault. Given the high rate of recidivism for sex offenders and that reducing opportunity and temptation is important to minimizing the risk of reoffense, there is a need to protect children where they congregate or play in public places in addition to the protections afforded by State law near schools and day care centers. The City finds and declares that, in addition to schools and day care centers, children congregate or play at child-oriented facilities identified in Section 44.03(1).

44.02 DEFINITIONS. As used in this chapter and unless the context otherwise requires:

1. “Aggravated offense” means a conviction for any of the following offenses:
   A. Sexual abuse in the first degree in violation of Code of Iowa § 709.2.
   B. Sexual abuse in the second degree in violation of Code of Iowa § 709.3.
   C. Sexual abuse in the third degree in violation of Code of Iowa § 709.4(1).
   D. Lascivious acts with a child in violation of Iowa Code Section 709.8(1).
   E. Assault with intent to commit sexual abuse in violation of Code of Iowa § 709.11.
   F. Burglary in the first degree in violation of Code of Iowa § 713.3(1)(d).
   G. Kidnapping, if sexual abuse as defined in Code of Iowa § 709.1 is committed during the offense.
   H. Murder, if sexual abuse as defined in Code of Iowa § 709.1 is committed during the offense.
   I. Criminal transmission of human immunodeficiency virus in violation of Code of Iowa § 709C.1(1)(a).

2. “Criminal offense against a minor” means any of the following criminal offenses or conduct:
A. Kidnapping of a minor, except for the kidnapping of a minor in the third degree committed by a parent.
B. False imprisonment of a minor, except if committed by a parent.
C. Any indictable offense involving sexual conduct directed toward a minor.
D. Solicitation of a minor to engage in an illegal sex act.
E. Use of a minor in a sexual performance.
F. Solicitation of a minor to practice prostitution.
G. Any indictable offense against a minor involving sexual conduct with the minor.
H. An attempt to commit an offense enumerated in this subsection.
I. Incest committed against a minor.
J. Dissemination and exhibition of obscene material to minors in violation of Code of Iowa § 728.2.
K. Admitting minors to premises where obscene material is exhibited in violation of Code of Iowa § 728.3.
L. Stalking in violation of Code of Iowa § 708.11(3)(b)(3), if the fact-finder determines by clear and convincing evidence that the offense was sexually motivated.
M. Sexual exploitation of a minor in violation of Code of Iowa § 728.12.
N. Enticing away a minor in violation of Code of Iowa § 710.10(1).
O. An indictable offense committed in another jurisdiction which would constitute an indictable offense under paragraphs A through N.

3. “Other relevant offense” means any of the following offenses:
A. Telephone dissemination of obscene materials in violation of Code of Iowa § 728.15.
B. Rental or sale of hard-core pornography in violation of Code of Iowa § 728.4.
C. Indecent exposure in violation of Code of Iowa § 709.9.
D. Incest committed against a dependent adult as defined in Code of Iowa § 235B.2 in violation of Code of Iowa § 726.2.
E. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs A through D if committed in this State.

4. “Person” means a person who has committed a criminal offense against a minor, or an aggravated offense, sexually violent offense, or other relevant offense that involved a minor.

5. “Residence” means the place where a person sleeps, which may include more than one location, and may be mobile or transitory.

6. “Sexually violent offense” means any of the following indictable offenses:
A. Sexual abuse as defined under Code of Iowa § 709.1.

B. Assault with intent to commit sexual abuse in violation of Code of Iowa § 709.11.

C. Sexual misconduct with offenders in violation of Code of Iowa § 709.16.

D. Any of the following offenses, if the offense involves sexual abuse or attempted sexual abuse: murder, attempted murder, kidnapping, burglary, or manslaughter.

E. A criminal offense committed in another jurisdiction which would constitute an indictable offense under paragraphs A through D if committed in this State.

44.03 RESIDENCY RESTRICTION.

1. A person shall not reside within two thousand feet of the real property comprising any of the following child oriented facilities:
   A. A public or non-public elementary or secondary school;
   B. A public or non-public park or playground;
   C. A public swimming pool;
   D. A public library;
   E. A multi-use recreational trail;
   F. A child care facility; or
   G. A United States Army Corps of Engineers recreation facility.

2. This chapter defines “child care facility” to mean child care center, preschool or registered child care home. This chapter defines “park” to mean any public or non-public park, including a park, forest preserve or conservation area under the jurisdiction of the State, a unit of local government or a private homeowner’s association, and any facilities thereon, as well as any playground, which for the purposes of this chapter shall mean a piece of land owned or controlled by the State, a unit of local government or a private entity that has been designated by said entity for the use solely or primarily for children’s recreation (i.e. youth league baseball, youth softball, youth soccer).

3. The distance of two thousand feet shall be measured from the closest boundary line of the residence to the closest boundary line of the child-oriented facility as identified in subsection 1.

44.04 RESIDENCY EXCEPTION. A person residing within two thousand feet of the real property comprising a child-oriented facility identified in Section 44.03(1) does not commit a violation of this chapter if any of the following apply:

1. The person is required to serve a sentence at a jail, prison, juvenile facility or other correctional institution or facility.

2. The person is subject to an order of commitment under Chapter 229A of the Code of Iowa.
3. The person has established a residence prior to the effective date of the ordinance codified in this chapter (Ordinance No. 732), or a child-oriented facility as identified in Section 44.03(1) is newly located on or after the effective date of the ordinance codified in this chapter and the person has established a residence prior to the date of the start of construction of such newly located child-oriented facility.

4. The person is a minor or ward under a guardianship.

[The next page is 225]
CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

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

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

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

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

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

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

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

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

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

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

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

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place.
3. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person’s own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person’s breath to determine the person’s blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person’s blood, breath, or urine established by the results of a chemical test performed within two hours after the person’s arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. (See Section 62.06 of this Code of Ordinances.)
CHAPTER 46

MINORS

46.01  Cigarettes and Tobacco

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

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

46.02  Contributing to Delinquency

46.02  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)
### RULES AND REGULATIONS IN CITY PARKS

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#### 47.01 Definition and Designation
A City park is an area of ground designated by the City as an open space for public recreation. The Public Works Department shall create and maintain a list of City parks regulated under the provisions of this chapter.

#### 47.02 Assembly
Public meetings, other than family or social gatherings, may be held in parks, upon first obtaining permission from the City or designated operator of park or facilities upon an application provided by the City. Applications will be acted upon within 72 hours of submission. Such assemblages shall be conducted in a lawful and orderly manner, and shall occupy such ground as may be assigned to or reserved for them.

#### 47.03 Motorized Vehicles
No person shall ride or drive a motorized vehicle in parks, except in the parking lots or on designated roads and ways. This does not include City maintenance vehicles, public safety vehicles, other vehicles performing work for the City or battery powered wheelchairs, scooters or similar mobility assistive devices designed for and used by persons with mobility disabilities. Any vehicle shall not exceed a speed of ten miles per hour in the parks or parking lots except public safety vehicles responding to emergency situations.

*(Ord. 806 – Sep. 09 Supp.)*

#### 47.04 Riding of Animals
No person shall ride a horse, burro or other large animal in the parks unless specifically allowed by individual park rules.

#### 47.05 Large Vehicles
No person shall drive or park a truck larger than a pickup, or drive or park a recreational vehicle or other commercial vehicle of any kind over any park roads or parking lots, except for delivery of its load for use in parks.

#### 47.06 Defacing of Property
No person shall in any manner deface or do damage to any park property, injure or remove any tree, shrub or plant standing or growing in any public park or pick or destroy any flowers or seeds growing therein.

#### 47.07 Building of Fires
No person shall kindle, build, maintain or in any way light a fire in the parks except in fireplaces provided, or in self-supporting barbecue grills or stoves in places designated as picnic areas, or by special written permit from the City after a determination that such fire creates no hazards to parks or to persons in the immediate vicinity. Any fire shall be continuously under the care and control of a competent person from the time it is kindled until it is extinguished.
CHAPTER 47  RULES AND REGULATIONS IN CITY PARKS

47.08 FIREARMS AND FIREWORKS. No person shall use firearms, explosives, weapons, firecrackers or fireworks of any character in the parks, except as provided by City ordinance.

47.09 LITTERING. No person shall deposit upon or litter the ground with any form of waste material. All waste material shall be deposited in receptacles provided for such purpose.

47.10 DISRUPTIVE ACTIVITY. No person shall behave in a disorderly or obscene manner, use any loud, violent, obscene or profane language or commit any nuisance in any park that is disruptive to other users of the park or to adjacent property owners.

47.11 DISTURBING OF STRUCTURES OR ANIMALS. No person shall disturb or interfere with any building or improvements of any kind being made in or about the parks, or disturb or interfere with birds or animals kept or found therein.

47.12 NON-ENTRANCE AREAS. No person shall enter upon portions of a park in disregard of signs or posted notices forbidding the same.

47.13 PARK HOURS. No person or vehicle shall remain in a park or park in the parking lots between 10:00 p.m. and 6:00 a.m. unless special permission shall have been given by the City for such person or group of persons or vehicles to remain there.

47.14 SAFETY. It is unlawful for a person to do any of the following acts:
1. Violate any park rules posted at any park;
2. Place or throw or launch therein any stone, dirt, stick, golf ball, missile, debris or other object that may be a hazard to any person or animal;
3. Conduct any of the following acts on an ice skating rink in any park owned by the City:
   A. Place or operate thereon a bicycle, tricycle, skateboard, roller skates, snowmobile, sled, toboggan, motor vehicle, moped, motorcycle or other type of similar equipment or conveyance.
   B. Skate at a speed or in a manner that presents a danger of injury to other skaters; and
   C. Be on ice unless an “open” sign is posted.

47.15 ILLEGAL SIGNS. No person shall post, paste, fasten, paint or affix any placard, bill, notice or sign upon any structure, tree, stone, fence or enclosure along or within the parks unless on a signboard as designated and provided by the City.

47.16 REMOVAL OF PARK STRUCTURES. No person shall remove benches, seats, tables or other amenities from the parks.

47.17 REMOVAL OF PARK MATERIAL. No person shall cut or remove any wood, turf, grass, soil, rock or gravel from the parks, without written permission from the City.
47.18  **NOISE.** Except for activities open to the public which have been approved by the City under this chapter, no person shall conduct an activity or produce any noise that is excessive or disruptive to other users of the park or to adjacent property owners.

47.19  **REMOTE CONTROL VEHICLES.** No person shall operate any remote controlled, power-driven model airplane, boat, car or similar vehicle in any City park.

47.20  **ALCOHOLIC BEVERAGES.** No person shall possess or consume alcoholic beverages, wine or beer on park property.

47.21  **GLASS CONTAINERS.** No person shall possess or use any type of glass container in any park.

47.22  **ANIMALS OR PETS.** The following shall apply to animals in parks:

1. No animals shall be allowed to run at large in any park. Such animals shall be controlled by a leash no longer than six feet.

2. The owner of animals shall remove all excrement deposited by said owner’s animals in compliance with Chapter 55, Animal Protection and Control.

*(Ord. 783 – Oct. 08 Supp.)*
CHAPTER 48

USE OF CITY GREENBELT, OPEN SPACE AREAS
AND RECREATION TRAILS

48.01 Definitions. The following terms are defined as used in this chapter:

1. “Greenbelt and open space areas” are defined as land adjacent to trails, creeks, ponds, storm water corridors with drainage ditches and/or detention areas, as well as other lands owned by the City reserved for the public benefit of active and passive recreation and for the preservation of natural areas not designated as parks pursuant to Section 47.01 of this Code of Ordinances.

2. “Recreation trails” are defined as bicycle and pedestrian trails owned by the City for the public benefit of active and passive recreation and principally for bicycle and pedestrian activity and recreation.

The Public Works Department shall create and maintain lists of greenbelt and open space areas and recreation trails regulated under the provisions of this chapter.

48.02 Vehicles Prohibited; Exceptions. Motor vehicles, motorcycles, motorized bicycles (regardless of the engine displacement and speed capability), trucks, road tractors, trailers, semi-trailers, trailer coaches, specially constructed vehicles and implements of husbandry, snowmobiles, golf carts and any other device driven by electric or battery power, dune buggies and any other motorized power driven type of recreational vehicles or device regardless of the number of wheels; and any other vehicle or conveyance that is powered or driven by a source other than human effort shall not be allowed upon, driven upon, or ridden upon any greenbelt, open spaces area or recreation trails. EXCEPTION: This prohibition does not apply to battery powered wheelchairs, scooters or similar mobility assistive devices designed for and used by persons with mobility disabilities and equipment performing construction, maintenance or other work for the City, authorized police vehicles and emergency vehicles responding to an emergency situation, or other vehicles allowed on recreation trails as permitted by the City.

(Ord. 806 – Sep. 09 Supp.)

48.03 Alcoholic Beverages Prohibited. Wine, beer, and any other alcoholic beverages or drinks shall not be brought, transported or otherwise carried upon or consumed upon any greenbelt, open space areas or recreation trails.

48.04 Dumping Prohibited. No junk, refuse, garbage or any other items of tangible personal property shall be deposited upon or dumped upon any greenbelt, open space area or recreation trail.
48.05 DIGGING, DEFACEMENT PROHIBITED; EXCEPTION. No person shall, while upon any greenbelt, open space area or recreation trail dig or remove any dirt, grass or sod or otherwise deface the same except while performing construction, maintenance or other work for the City.

48.06 OVERNIGHT CAMPING. No person shall set up an encampment for overnight camping in any greenbelt, open space area, or recreation trail. No person shall stay or remain in any greenbelt or open space area between the hours of 10:00 p.m. and 6:00 a.m. of the following day.

48.07 ANIMALS OR PETS. The following shall apply to animals in any greenbelt, open space area or recreation trail:

1. No animals shall be allowed to run at large, but shall be controlled by a leash no longer than six feet.
2. The owners of animals shall remove all excrement deposited by such animals in compliance with Chapter 55, Animal Protection and Control.

(Ord. 783 – Oct. 08 Supp.)

48.08 RIDING OF ANIMALS. No person shall ride a horse, burro or any other animal in any greenbelt, open space area or recreation trail.

48.09 FLOOD CONTROL; ENTRY PROHIBITED. With the exception of Beaver Creek, it is unlawful for any person to enter any lagoon, pond, creek or stream at any time. It is unlawful for any person to enter any drainage ditch, swale or detention basin or any other area used for temporary water storage when high water is present, or the depth of it is unknown, and poses a risk to human life.

(Ord. 825 – Aug. 10 Supp.)

48.10 DISRUPTIVE ACTIVITY. No person shall behave in a disorderly or obscene manner, use any loud, violent, obscene or profane language, or commit any nuisance in any greenbelt, open space area or recreation trail that is disruptive to other users of said areas or to adjacent property owners.

48.11 SAFETY. It is unlawful for a person to do any of the following acts:

1. Violate any rules posted in any open space or along any recreation trail;
2. Place or throw or launch any stone, dirt, stick, golf ball, missile, debris or other object that may be a hazard to any person or animal.
CHAPTER 49

USE OF PONDS, DETENTION AREAS
AND OPEN WATER ON PUBLIC LAND

49.01 STATEMENT OF PUBLIC POLICY. It is the policy of the City that the ponds, storm water detention areas and open water located on public land in the City are not to be used for wading, swimming or any other recreational or private purpose unless otherwise determined by this chapter. It is further recognized that allowing wading, swimming or other recreational or private uses may create a safety concern for people that are not properly supervised. In order to achieve this public purpose of maintaining the safety and integrity of public bodies of water in the City, all ponds, detention areas and open waters within the Johnston City limits that are located on public property or public easement areas shall be restricted as provided within this chapter.

49.02 ACTS PROHIBITED. It is unlawful for any person, alone or in conjunction with others, to wade, swim or use for any other recreational or private purpose any ponds, detention areas or open waters located on public property or in public easement areas in the City.

49.03 RESTRICTIONS. The following restrictions apply to ponds, detention areas and open water located on public property or in public easement areas:

1. Fishing allowed in accordance with State of Iowa Fishing Regulations.
   (Ord. 826 – Aug. 10 Supp.)

2. Swimming or wading is prohibited.

3. Recreational use of open waters is prohibited, including boating.

4. Use of open waters for a private purpose is prohibited.

5. Ice skating is prohibited unless approved by a resolution of the City Council.

6. Fishing is prohibited on Ceres Lake and Terra Lake (Pioneer Parkway).

7. Fishing is allowed from shore only.

49.04 EXEMPTIONS. This chapter does not apply to the following:

1. Beaver Creek.

2. The Des Moines River.

3. Saylorville Lake.
CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance

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

(Code of Iowa, Sec. 657.1)

50.02 Nuisances Enumerated

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

(Code of Iowa, Sec. 657.2)

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

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

(Ord. 783 – Oct. 08 Supp.)

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 62.07)

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. Dense growth of all weeds, brush, or other vegetation as defined in Chapter 53 so as to constitute a health, safety, or fire hazard.  
   (Ord. 959 – Nov. 17 Supp.)

10. **(Repealed by Ord. 777 – Feb. 08 Supp.)**

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.

13. Sewage. The discharge or exposure of sewage, garbage or any other organic waste matter into or on any public place.

14. Poison. The deposit of any poisonous material or thing on any premises, so as to allow access to it by any animal or person.

15. Stagnant Water. Stagnant water likely to afford breeding places for mosquitoes.

16. Debris. Depositing or permitting to be deposited construction debris, dirt, gravel, sand, or other sedimentation from a lot:
   
   A. Onto public rights-of-way in amounts which could cause a danger to public health, safety or welfare; or
   
   B. Into public storm sewers or drainage ways in amounts which could cause an obstruction to the flow of same; or
   
   C. Into a public stream, river or lake in amounts which could cause pollution of same.  
   (Ord. 959 – Nov. 17 Supp.)

17. Water on Streets. Discharge of water upon or under public streets or sidewalks which could cause danger to public health, safety, or welfare.  
   (Ord. 959 – Nov. 17 Supp.)

18. Noise. Any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

19. Lighting. Permitting or allowing the illumination of flood lights, yard lights or similar lights to be focused in such a fashion so as to encroach upon the peaceful enjoyment of neighboring property.

20. Machinery. All dangerous, unguarded machinery in any public place or so situated or operated on private property as to attract the public.

21. Overhanging Objects. Loose, overhanging objects or accumulations of ice or snow, which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.
50.03 OTHER CONDITIONS. The following sections and chapters of this Code of Ordinances contain regulations prohibiting or restricting other conditions which are deemed to be nuisances:

1. Throwing and Shooting (See Section 41.10)
2. Junk and Junk Vehicles (See Chapter 51)
3. Obstructing View at Intersections (See Section 62.07 and Section 166.27(1))
4. Storm Drainage System (See Chapter 102)
5. Storage and Disposal of Solid Waste (See Chapter 105)
6. Removal of Snow, Ice and Accumulations from Sidewalks (Section 136.03)
7. Erosion and Sediment Control and Stormwater Management (See Chapter 145) (Ord. 777 – Feb. 08 Supp.)
8. Unsafe Structures and Equipment (See Chapter 155)
9. Prohibited Signs (See Chapter 170)
10. Animal Excrement (See Chapter 55) (Ord. 783 – Oct. 08 Supp.)

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 City Administrator 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. Right to Hearing. A statement that the owner has a right to a hearing before the City Administrator by filing a written request therefor with such officer within ten days from the date of receipt of the notice to abate.
6. 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 or by personal service 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 before the City Administrator as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the City Administrator within ten days from the date of receipt of the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. At the conclusion of the hearing, the City Administrator shall render a written decision as to whether a nuisance exists. If the City Administrator finds that a nuisance exists, it shall be ordered abated within a reasonable time under the circumstances. An appeal from this decision may be had by immediately filing a written notice with the City Administrator. This appeal will be heard 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 time reasonable 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 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.

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CHAPTER 51
JUNK AND JUNK VEHICLES

5.01  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.

5.02  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 junk vehicle stored within:

1. Structure. A garage or other enclosed structure; or

2. Salvage Yard. An auto salvage yard or junk yard lawfully operated within the City.

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

NOISE CONTROL

52.01 SCOPE OF REGULATIONS. This chapter applies to the control of all noise originating within the limits of the City, except in the following cases: (a) a State or federal agency has adopted a different standard or rule than that prescribed within this chapter which preempts the regulation of noise from a particular source so as to render this chapter inapplicable, or (b) the Council has determined that, by reason of public acceptance of the activity producing a particular noise or noises, such noise is deemed acceptable to the residents of the City.

52.02 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms have the following meanings. Definitions of technical terms used in this chapter which are not herein defined shall be obtained from publications of acoustical terminology issued by the American National Standards Institute (ANSI):

1. “Application” means the application discussed in Section 52.06 of this chapter.
2. “Emergency” means any occurrence or set of circumstances involving actual or imminent physical or psychological trauma or property damage which demands immediate action.
3. “Emergency work” means any work performed for the purpose of alleviating or resolving an emergency.
4. “Motorcycle” means any two or three-wheeled motor vehicle.
5. “Motor vehicle” means any motor-powered vehicle designed to carry at least one passenger or driver and of the type typically licensed for use on the public highways. (Note: “motor vehicle” includes most motorcycles.)
6. “Noise” means any sound which disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.
7. “Noise disturbance” means those sounds defined as “noise disturbances” in Section 52.04 of this chapter. Other factors that may be used in determining a noise disturbance include the duration of the noise and whether the noise is recurrent, intermittent or constant.
8. “Powered model vehicle” means any self-propelled airborne, waterborne or landborne model plane, vessel or vehicle which is not designed to carry persons, including, but not limited to, any model airplane, boat, car or rocket.
9. “Public right-of-way” means the traveled portion of any street or alley or similar place which is owned or controlled by the City or other governmental entity.
10. “Real property boundary” means an imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person, but not including intra-building real property divisions.

11. “Recreational vehicle” means any motor-powered vehicle designed to carry at least one passenger or driver and equipped for use in racing or other recreational events or uses off of public right-of-way on public or private property; except, however, for the purposes of this chapter, any such vehicle which is licensed for use on the public highways is deemed a “motor vehicle” or “motorcycle” (if two or three-wheeled) and not a “recreational vehicle.” (Examples of recreational vehicles are a snowmobile, a minibike, an all-terrain vehicle, a stock car or motorboat.)

12. “Residential property” means any property on which is located a building or structure used wholly or partially for living or sleeping purposes.

13. “Sound” means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that cause compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

14. “Sound equipment” means any radio, record player, tape deck or player, loudspeaker, amplifier, sound track or other device for producing, reproducing or amplifying sound, except, however, “sound equipment” does not include (a) sirens and other equipment used to alert persons to the existence of an emergency, (b) equipment used by law enforcement and other public safety officials in the performance of their official duties, (c) church carillons, bells or chimes, (d) mobile radio or telephone signaling devices and (e) automobile and truck radios, tape decks or players or other such standard equipment used and intended for the use and enjoyment of the occupants provided that the sound emitted therefrom is not audible for more than fifty (50) feet from such automobile or truck.

52.03 NOISE DISTURBANCE PROHIBITED. It is unlawful for any person to willfully make or continue or cause to allow to be made or continued any noise disturbance within the City.

52.04 INCLUDED SOUNDS. Except for sounds excluded in Section 52.05, the term “noise disturbance” means any of the following sounds:

1. Injurious or Disturbing Sounds Generally. Any sound which endangers or injures the welfare, safety or health of a human being or disturbs a reasonable human being of normal sensitivities or causes or tends to cause an adverse physiological or physical effect on human beings or devalues or injures property.

2. Selling by “Hawking” or “Barking.” The sound of selling by shout or outcry when made within the area of the City zoned residential or commercial.

3. Loading and Unloading. The sound made by outdoor loading, unloading, opening, closing or handling of boxes, crates, containers, building materials, garbage cans, trash receptacles or similar objects between the hours of nine o’clock (9:00) p.m. and six-thirty o’clock (6:30) a.m. within any area of the City zoned residential or at the real property boundary of residential property.

4. Engine Repairs and Testing. The sound made by the repairing, rebuilding, modifying or testing of a motor vehicle or recreational vehicle which is received
between the hours of nine o’clock (9:00) p.m. and six-thirty o’clock (6:30) a.m. at the real property boundary of residential property.

5. Powered Model Vehicles. The sound made by the operation of a powered model vehicle which is received between the hours of nine o’clock (9:00) p.m. and six-thirty o’clock (6:30) a.m. at the real property boundary of residential property.

6. Musical Instruments. The sound made by a drum, horn, reed instrument, string instrument or other musical instrument or device which is received between the hours of nine o’clock (9:00) p.m. and six-thirty o’clock (6:30) a.m. at the real property boundary of residential property.

7. Off-road Motorcycle and Recreational Vehicle Noise. The sound made on private property or on City-owned property other than a public right-of-way by a motorcycle or recreational vehicle and received between the hours of nine o’clock (9:00) p.m. and six-thirty o’clock (6:30) a.m. at the real property boundary of residential property; provided, however, the sound made by a motorcycle when traveling from private property to a public right-of-way, or vice versa, in pursuance of normal ingress or egress for purposeful transportation is not a noise disturbance unless made so by some provisions of this section other than this subsection 7.

8. Construction Noise. The sound made by tools or equipment in erection, demolition, excavation, drilling or other such construction work which is received between the hours of nine o’clock (9:00) p.m. and six-thirty o’clock (6:30) a.m. at the real property boundary of residential property.

9. Sound Equipment. The sound made by sound equipment operated upon the public right-of-way or in any building or upon any premises, public or private, if plainly audible from any public right-of-way within the City between the hours of nine o’clock (9:00) p.m. and six-thirty o’clock (6:30) a.m. or upon any school grounds or in any school zone during normal school hours.

10. Racing. The sound made by a motor vehicle or recreational vehicle on private property or public right-of-way during any racing event or time trial, whether organized or unorganized.

11. Screeching Tires. The sound made by the intentional screeching or squealing of the tires of a motor vehicle in areas of the City zoned residential or commercial.

12. Noisy Exhaust System. The sound made by a motor vehicle or a recreational vehicle whose exhaust system has been modified by the installation of a muffler cut-out or bypass.

13. Lawn and Garden Equipment. The sound emitted by motor-powered, muffler-equipped lawn and garden equipment operated between the hours of nine o’clock (9:00) p.m. and six-thirty o’clock (6:30) a.m.

14. Chain Saws. The sound emitted by motor-powered tree trimming equipment operated between the hours of nine o’clock (9:00) p.m. and six-thirty o’clock (6:30) a.m.

52.05 EXCLUDED SOUNDS. Any other provision of Section 52.04 or other section of this chapter to the contrary notwithstanding, the term “noise disturbance,” as used in this chapter, does not mean or include the following sounds:

1. Emergencies. The sound emitted in the performance of emergency work or to alert persons to the existence of an emergency.
2. Alarms. The sound emitted by the intentional sounding outdoors of any fire, burglar or civil defense alarm, siren, whistle or similar stationary emergency signaling device for emergency purposes, or for the essential testing of such device when conducted between the hours of six-thirty o’clock (6:30) a.m. and nine o’clock (9:00) p.m.

3. Church Bells. The sound emitted by church carillons, bells or chimes.

4. Automobile Radios. The sound emitted by an automobile or truck radio, tape deck or player or other such standard equipment used and intended for the use and enjoyment of such vehicle’s occupants while such vehicle is on the public right-of-way, provided that the sound emitted therefrom is not audible for more than fifty (50) feet.

5. Certain Signaling Devices. The sound emitted by mobile radio or telephone signaling devices.

6. Religious Ceremonies. The sound emitted in conjunction with a religious celebration.

7. Law Enforcement. The sounds made or caused to be made by law enforcement officials in the performance of their official duties.

8. Mosquito Spraying Equipment. The sound made by City-owned or hired mosquito spraying equipment.

52.06 OTHER LAWS AND ORDINANCES. No provisions of this chapter should be construed to legalize or permit sounds, devices or activities made unlawful by State or federal statutes or this Code of Ordinances.

(Ch. 52 - Ord. 828 – Aug. 10 Supp.)
CHAPTER 53

WEEDS AND GRASS

53.01 Purpose. The purpose of this chapter is to beautify and preserve the appearance of the City by requiring property owners and occupants to maintain grass, or other vegetation at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.

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

1. “Agricultural Area” means land uses as defined as such in Chapter 165.04 (7) inclusive of row crop field edges, fence rows, and similar areas as determined by City staff.

2. “Business and Industrial Areas” means uses as described in Chapter 168 or by zoning classification inclusive of outdoor storage areas.

3. “Curb,” “curb line” or “curbing” means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.

4. “Cut” or “mow” means to mechanically maintain the growth of grass, weeds or brush at a uniform height.

5. “Developed Residential Areas” means a parcel, lot, or other property where any customary residential use is intended by zoning classification or use exclusively for family dwelling purposes with existing buildings or other structures.

6. “Designated Open Spaces” means a parcel, lot, property or other area specifically designated for environmental, scenic, or recreational purposes or other areas intended to be non-developed by virtue of location, physical ability, or accessibility. Designated Open Spaces include but are not limited to parks, prairies, natural green corridors, watercourses, riparian buffers, and wooded areas.

7. “Owner” means a person owning private property in the City and any person occupying private property in the City.

8. “Parking” means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.

9. “Undeveloped Residential Areas” means a parcel, lot, or other property where customary residential use is intended by zoning classification exclusively for family dwelling purposes without the existence of buildings or structures.

53.03 Cutting Specifications and Standards of Practice.

1. Every owner shall cut, mow and maintain all grass, weeds and brush upon the owner’s property and adjacent to the curb line or outer boundary of any street, which
includes the parking area abutting the owner’s property, to a uniform height as defined in Section 53.04.

2. Every owner shall cut, mow and maintain grass, weeds and brush adjacent to the curb line, including the parking area abutting the owner’s property, in such a manner so as to be in conformity with and at an even height with all other grass, weeds or brush growing on the remainder of the owner’s property with the exception of landscaping items as determined by the City.

**53.04 UNIFORM HEIGHT SPECIFICATIONS.** Grass, weeds or brush shall be cut, mowed and maintained so as not to exceed the following height specifications:

1. Developed Residential Areas - not to exceed nine (9) inches.
2. Undeveloped Residential Areas - not to exceed twelve (12) inches.
3. Business and Industrial Areas - not to exceed twelve (12) inches.
4. Agriculture Areas - not to exceed eighteen (18) inches.
5. Designated Open Spaces – No limit.

**53.05 NOXIOUS WEEDS.**

1. Every owner shall cut and control noxious weeds upon the owner’s property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner’s property by cutting noxious weeds to ground level or use of herbicides to eliminate or eradicate such weeds.

2. Noxious weeds include any weed growth or plant designated as noxious by the State of Iowa Department of Agriculture & Land Stewardship or by the Code of Iowa.

**53.06 NOTICE TO ABATE.** Upon discovery of any violations of this chapter, the City shall initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

*(Ch. 53 - Ord. 960 – Nov. 17 Supp.)*

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Owner Designated
55.03 Animal Neglect
55.04 Livestock Neglect
55.05 Abandonment of Cats and Dogs
55.06 Livestock
55.07 At Large Prohibited
55.08 Damage or Interference
55.09 Annoyance or Disturbance
55.10 Vicious Dogs
55.11 Prohibition of Dangerous Animals
55.12 Rabies Vaccination
55.13 Owner’s Duty
55.14 Confinement
55.15 At Large: Impoundment
55.16 Disposition of Animals
55.17 Pet Awards Prohibited
55.18 Special Penalty
55.19 Animal Excrement

55.01 DEFINITIONS. The following terms are defined for use in this chapter.

1. “Advertise” means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.

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

3. “At large” means off the premises of the animal’s owner unless:
   A. The animal is on a leash, cord, chain or similar restraint not more than six (6) feet in length and under the control of a competent person, or
   B. The animal is within a motor vehicle, with the vehicle owner’s consent, or
   C. The animal is housed within a veterinary hospital, licensed kennel, pet shop or Animal Shelter.

4. “Business” means any enterprise relating to any of the following:
   A. The sale or offer for sale of goods or services.
   B. A recruitment for employment or membership in an organization.
   C. A solicitation to make an investment.
   D. An amusement or entertainment activity.

5. “Dangerous animal” means: (i) any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so; (ii) any animal declared to be dangerous by the County Board of Health or the City Council; and (iii) the following animals, which are deemed to be dangerous animals per se:
   A. Wolves and coyotes;
   B. Badgers, wolverines, weasels, mink and other Mustelids (except ferrets);
   C. Bears;
   D. All apes (including chimpanzees), baboons and macaques;
   E. Monkeys, except the squirrel monkey;
CHAPTER 55   ANIMAL PROTECTION AND CONTROL

F. Elephants;
G. Wild boar;
H. Black widow spiders and scorpions;
I. Snakes which are naturally venomous or poisonous;
J. All cats, except domestic cats (Carnivora of the family Felidae including but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, etc.)
K. Raccoons;
L. Alligators, crocodiles and caiman;

6. “Excrement” means feces and/or manure.  (Ord. 783 – Oct. 08 Supp.)
7. “Fair” means any of the following:
   A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the Code of Iowa or any fair event conducted by a fair under the provisions of Chapter 174 of the Code of Iowa.
   B. An exhibition of agricultural or manufactured products.
   C. An event for operation of amusement rides or devices or concession booths.
8. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the Code of Iowa.
9. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry.
    (Code of Iowa, Sec. 717.1)
10. “Owner” means any person owning, keeping, sheltering or harboring an animal.
11. “Pet” means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.

55.02 OWNER DESIGNATED. Any person who permits any cat, dog or other animal to remain at or about such person’s house, apartment, stable, store or other premises in the City, whether such person is the owner or tenant, on a regular or repeated basis, and who feeds, shelters, or otherwise cares for said cat, dog or other animal, shall be held to be the owner of the cat, dog or other animal.

55.03 ANIMAL NEGLECT. It is unlawful for a person who impounds or confines, in any place, an animal, excluding livestock, to fail to supply the animal during confinement with a sufficient quantity of food or water, or to fail to provide a confined dog or cat with adequate shelter, or to torture, deprive of necessary sustenance, mutilate, beat, or kill such animal by any means which causes unjustified pain, distress or suffering.
    (Code of Iowa, Sec. 717B.3)
55.04 LIVESTOCK NEGLECT. It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

(Code of Iowa, Sec. 717.2)

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

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

55.06 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.

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

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

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

55.10 VICIOUS DOGS.

1. Definition. A “vicious dog” means: (i) any dog that while running at large has attacked or bitten any human being; or (ii) any dog that while running at large has attacked or bitten any domestic animal or fowl on two separate occasions within a 12-month period; or (iii) any dog which, when unprovoked, chases or approaches a person upon the streets, sidewalks or any public or private property in a menacing fashion or apparent attitude of attack. No dog may be declared vicious if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort upon the premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing, or assaulting the dog or has, in the past, been observed or reported to have teased, tormented, abused or assaulted the dog or was committing or attempting to commit a crime.

2. Confinement.

A. All vicious dogs shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section. The pen, kennel or structure must have minimum dimensions of five feet by ten feet, have secure sides and a secure top attached to the sides, or in lieu of a top, walls at least six feet in height and at least six feet taller than any internal structure.

B. All pens or other structures designed, constructed or used to confine vicious dogs must be locked with a key or combination lock when such
animals are within the structure. Such structure must have a secure bottom, floor or foundation attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined dog.

C. All structures erected to house vicious dogs must comply with all City zoning and building regulations. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.

D. No person shall permit a vicious dog to go outside its kennel or pen unless such dog is muzzled and securely leashed with a leash no longer than six feet. No person shall permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless both the dog and the leash are under the actual physical control of a person 18 years of age or older. No vicious dog shall be leashed to inanimate objects such as trees, posts, buildings, or any other structure or object.

E. A vicious dog which is found not confined as required by this section twice in any calendar year shall be required to be destroyed.

(Ord. 763 – Sep-07 Supp.)

3. Insurance Coverage Requirements. The owner or keeper of a vicious dog shall provide a certificate of insurance issued by an insurance company licensed to do business in this State, providing personal liability insurance coverage as in a homeowner's policy, with a minimum liability amount of $100,000 for the injury or death of any person, for damage to property of others and for acts of negligence by the owner or his or her agents.

4. Seizure, Impoundment and Disposition.

A. Upon receipt of a complaint of any individual alleging that a dog is a vicious dog, the Police Chief may declare such dog a vicious dog by delivering a written notice of declaration to the owner. The notice shall include a description of the dog and the basis for the declaration of viciousness. The notice shall set forth that the owner or keeper shall be required to confine the dog as required by subsection 2 of this section. The notice shall be served upon any adult residing at the premises where the dog is located or may be posted on those premises if no adult is present to accept service.

B. The person owning, keeping, sheltering, or harboring the dog in question may contest the declaration of viciousness by filing a written request with the City Clerk within three business days of the receipt of the declaration. At this time, if the owner shall agree to confine the dog pursuant to subsection 2, the dog shall not be impounded pending appeal. Failure to file a request for hearing shall constitute a waiver of any right to contest the declaration of the Police Chief and the Police Chief shall be authorized to order the seizure and impoundment of the dog if the owner cannot show the ability to comply with said subsection 2. A dog so seized shall be impounded for a period of seven days. If at the end of the impoundment period, the owner has not shown the ability to confine the dog as required, the Police Chief shall order the dog to be destroyed.

(Ord. 763 – Sep-07 Supp.)
C. If a hearing is requested as provided in paragraph B, the person owning, keeping, sheltering, or harboring the dog in question shall be given not less than 72 hours’ written notice of the time and place of the hearing. The notice shall set forth the description of the dog in question and the basis for the allegation of viciousness. The notice shall also set forth that, if the determination of the Police Chief is upheld, the owner shall be required to confine the dog as required by subsection 2 of this section. The notice shall be served in the same manner as the declaration notice.

D. If, after hearing, the City Administrator upholds the determination of the Police Chief that the dog is a vicious dog or is a vicious dog held in violation of subsection 2 and 3 of this section, as set out in the notice of hearing, the City Administrator shall order the person owning, sheltering, harboring or keeping the animal to permanently confine the dog as required by this chapter. The order shall immediately be served upon the person against whom it was issued in the same manner as the notice of hearing. If the order is not complied with within three days of its issuance, the City Administrator is authorized to seize and impound the dog. A dog so seized shall be impounded for a period of seven days. If, at the end of the impoundment period, the person against whom the order of the City Administrator was issued has not appealed such order to the City Council or has not complied with the order, the City Administrator shall cause the dog to be destroyed. (Ord. 763 – Sep-07 Supp.)

E. The order to confine a vicious dog issued by the City Administrator may be appealed to the City Council. In order to appeal such order, written notice of appeal must be filed with the City Clerk within three days after receipt of the order. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the City Administrator. (Ord. 763 – Sep-07 Supp.)

F. The notice of appeal to the Council shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within 20 days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing the Council may affirm, modify, or reverse the order of the City Administrator. Such determination shall be contained in a written decision and shall be filed with the Clerk within three days after the hearing or any continued session thereof. The hearing shall be confined to the record made before the City Administrator, the arguments of the parties or their representatives, any additional evidence which was not available at the time of the hearing before the City Administrator, and any other information the Council deems necessary.

G. If the Council affirms the action of the City Administrator, the Council shall order in its written decision that the person owning, sheltering, harboring, or keeping such vicious dog shall confine the dog as required by subsection 2 of this section. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice set out in paragraph A of this subsection. If the original order of the City Administrator is not appealed and is not complied with within three days of its issuance, the Police Chief is authorized to order the seizure and impoundment of such vicious dog. A dog so seized shall be impounded for a
period of seven days. If, at the end of the impoundment period, the person against whom the decision and order of the Police Chief, City Administrator or the City Council was issued has not petitioned the Polk County District Court for a review of the order or has not complied with the order, the City Administrator shall cause the dog to be destroyed in a humane manner.

(Ord. 763 – Sep-07 Supp.)

H. Upon the determination that a dog has been vicious by either the Police Chief, City Administrator or the City Council, the dog shall not be allowed to be removed from the City. Failure to comply with an order of the City Administrator issued pursuant to this section and not appealed or of the Council after appeal is a simple misdemeanor.

(Ord. 763 – Sep-07 Supp.)

5. Impoundment Costs. Any dog that is alleged to be vicious and that is under impoundment or quarantine at the animal shelter shall not be released to the owner, but shall continue to be held at the expense of the owner pending the outcome of the hearing. All costs of such impoundment or quarantine shall be paid by the owner if the dog is determined to be vicious. If the dog is not determined to be vicious, all costs shall be paid by the City, except costs attributable to initial confinement prior to notice or costs of any required quarantine which shall nonetheless be paid by the owner.

55.11 PROHIBITION OF DANGEROUS ANIMALS. No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a custodian for such animal, temporarily or otherwise, or keep such animal for any other purpose or in any other capacity within the City except in the following circumstances:

1. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society or museum where they are kept as live specimens for the public to view or for the purpose of instruction, research or study.

2. The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit or show where such circus, carnival, exhibit or show is of a traveling nature, is displayed before large assemblages of people, and maintains any and all required Federal or State licenses.

3. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.

4. The keeping of dangerous animals by a wildlife rescue organization in accordance with rules established by the Natural Resource Commission.

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

(Code of Iowa, Sec. 351.33)

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

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

(Code of Iowa, Sec. 351.39)

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

55.16 DISPOSITION OF ANIMALS. Impounded animals may be recovered by the owner upon payment of impounding costs as established by the impoundment facility, and if an unvaccinated cat or dog, by having it immediately vaccinated.

55.17 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
   A. A prize for participating in a game.
   B. A prize for participating in a fair.
   C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
   D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.

2. Exceptions. This section does not apply to any of the following:
   A. A pet shop licensed pursuant to Section 162.5 of the Code of Iowa if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
   B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen’s Federation.

55.18 SPECIAL PENALTY. If the owner or person having charge of any animal knowingly permits the same to run at large contrary to the provisions of this chapter, such owner shall, in addition to the penalty imposed for a violation of this Code of Ordinances, be liable to any person whose property shall be injured thereby for all damages sustained by such person.

55.19 ANIMAL EXCREMENT.

1. Disposal and removal of animal waste shall be in compliance with Chapter 145, Erosion and Sediment Control and Stormwater Management.
2. On any public property (including right-of-way) or any private property neither owned nor occupied by the subject person:

   A. It shall be the duty of each person who owns, possesses or controls an animal to immediately remove and dispose of any excrement left by the animal(s) on any public property, or any private property neither owned nor occupied by such person.

   B. Disposal shall be accomplished as currently required by Metro Waste Authority, in a landfill.

   C. Any person violating this subsection shall be guilty of a misdemeanor in accordance with the Johnston Code of Ordinances, Section 3.06, Criminal Penalties.

   D. Any person violating this subsection shall be fined twenty-five dollars ($25.00) for the first violation and fifty dollars ($50.00) for each subsequent violation.

3. On any private property either owned and/or occupied by the subject person:

   A. It shall be the duty of each person who owns, possesses or controls an animal to remove and dispose of any excrement left by the animal(s).

   B. Whenever a representative of the City finds that a person has violated a requirement of this subsection, the condition shall be deemed to be a nuisance in the City. Abatement of the violation shall be in compliance with Chapter 50, Nuisance Abatement Procedure.

4. On public right-of-way adjacent to private property and to the extent not removed and disposed of by the subject person:

   A. Where the person who owns, possesses or controls an animal is known and the abandonment of excrement has been witnessed, the remedy shall be in compliance with subsection 1 of this section.

   B. Where the person who owns, possesses or controls an animal is not known, it shall be the duty of each property owner to remove and dispose of any excrement.

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

   C. Whenever a representative of the City finds that a person has violated a requirement of this subsection, the condition shall be deemed to be a nuisance in the City. Abatement of the violation shall be in compliance with Chapter 50, Nuisance Abatement Procedure.

5. Exemptions to this section:

   A. A handicapped person with an animal who is physically unable to comply and/or whose trained animal is serving as a guide.

   B. A peace officer when using a horse or dog for police purposes.

   (Ord. 783 – Oct. 08 Supp.)

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CHAPTER 56

CITY DOG AND CAT LICENSE REQUIRED

56.01 Annual License Required
1. Every owner of a dog or cat over the age of six (6) months shall procure a dog or cat license from the Public Works Department before the 31st day of December of each year.
2. Such license may be procured after December 31st and at any time immediately following the possession of a dog or cat or at such time said dog or cat has reached the age of six (6) months.
3. The owner of a dog or cat for which a license is required shall apply to the Public Works Department on forms provided by the City.
4. The form of the application shall state the breed, sex, age, color, markings, and name, if any, of the dog or cat, and the address of the owner and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of vaccine administered and the date the dog or cat shall be revaccinated.
5. All licenses shall expire on December 31.

56.02 License Fee.
1. Male or female cat or dog - $10.00.
2. If an owner of a cat or dog acquires possession of said animal less than six months prior to the expiration date of the license for that period, the license fee shall be reduced fifty percent (50%) and the full regular license rate as herein provided shall be in effect on January 1.

56.03 License Tags. Upon receipt of the application and fee, the Public Works Department shall deliver or mail to the owner a license which shall be in the form of a metal tag stamped with the serial number of the license as shown on the record book of the Public Works Department, the year in which it is issued, and the name of the City. The license tag shall be securely fastened by the owner to a collar or harness which shall be worn at all times by the dog or cat for which it is issued. A license issued for one dog or cat shall not be transferable to another dog or cat. Upon the expiration of the license the owner shall remove said tag from the dog or cat.

56.04 License Records. The Public Works Department shall keep a book to be known as the record of licenses which shall show:
1. The serial number and date of each application for a license.
2. The description of the dog or cat as specified in the application, together with the name of the owner of the dog or cat.

3. The date when each license tag is issued and the serial number of each tag, the date of the most recent rabies vaccination, and the type of vaccine administered, and the date the dog or cat shall be revaccinated.

4. The amount of all fees paid.

5. Such other data as may be required by law.

56.05 IMMUNIZATION. Before a license is issued, the owner shall furnish a veterinarian’s certificate showing that the dog or cat for which each license is sought has been vaccinated against rabies, and that the vaccination does not expire within six months from the effective date of the dog or cat license. A tag showing evidence of proper vaccination shall at all times be attached to the collar of the dog or cat.

56.06 DUPLICATE TAGS. Upon the filling of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of $1.00 and the Public Works Department shall enter in the license record the new number assigned.

56.07 TRANSFERS OF LICENSED DOGS OR CATS. Upon transfer of a licensed dog or cat into the City, the owner shall surrender the original license tag to the Public Works Department. The Public Works Department shall preserve the surrendered tag and, without a license fee, issue a new license tag.

56.08 KENNEL DOGS OR CATS. Dogs or cats kept in State or Federally licensed kennels, which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint, are not subject to the provisions of this chapter.

56.09 EXCEPTIONS TO LICENSE REQUIREMENTS. The requirements for licensing dogs and cats do not apply to owners during the first thirty days of their residency in the City or if the dog or cat is:

1. In transit through the City.
2. Housed in a veterinary hospital.
3. Housed temporarily in an animal grooming shop.
4. Housed in an established licensed kennel.
5. Housed in a foster home of a rescue group.

(Ch. 56 - Ord. 846 – Dec. 11 Supp.)

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the “Johnston 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 Department.

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

60.07 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)
## CHAPTER 61

**TRAFFIC CONTROL DEVICES**

<table>
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| 61.01   | **Installation.** The City Council shall cause to be placed and maintained traffic control devices when and as required under this Traffic Code or under State law or emergency or temporary traffic control devices for the duration of an emergency or temporary condition as traffic conditions may require to regulate, guide or warn traffic. The Police Department and Public Works Department may also place temporary traffic control devices for the duration of an emergency or temporary condition. The Public Works Department shall keep a record of all such traffic control devices.  
  
(Code of Iowa, Sec. 321.255) |
| 61.02   | **Crosswalks.** The Public Works Department is hereby authorized, subject to approval of the Council by resolution, to designate and maintain crosswalks by appropriate traffic control devices at intersections where, due to traffic conditions, there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.  
  
| 61.03   | **Traffic Lanes.** The Public Works Department is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with this Traffic Code. Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.  
  
| 61.04   | **Standards.** Traffic control devices shall comply with standards established by *The Manual of Uniform Traffic Control Devices for Streets and Highways*.  
  
(Code of Iowa, Sec. 321.255) |
| 61.05   | **Compliance.** No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer, subject to the exceptions granted the driver of an authorized emergency vehicle under Section 321.231 of the Code of Iowa.  
  
(Code of Iowa, Sec. 321.256) |
CHAPTER 62

GENERAL TRAFFIC REGULATIONS

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited.
5. Section 321.79 – Intent to injure.
6. Section 321.91 – Penalty for abandonment.
7. Section 321.98 – Operation without registration.
12. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
14. Section 321.194 – Special minor’s licenses.
15. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
16. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
17. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
18. Section 321.219 – Permitting unauthorized minor to drive.
21. Section 321.222 – Renting motor vehicle to another.
22. Section 321.223 – License inspected.
25. Section 321.234A – All-terrain vehicles.
27. Section 321.247 – Golf cart operation on City streets.
29. Section 321.259 – Unauthorized signs, signals or markings.
30. Section 321.260 – Interference with devices, signs or signals; unlawful possession.
31. Section 321.262 – Damage to vehicle.
32. Section 321.263 – Information and aid.
33. Section 321.264 – Striking unattended vehicle.
34. Section 321.265 – Striking fixtures upon a highway.
35. Section 321.275 – Operation of motorcycles and motorized bicycles.
36. Section 321.278 – Drag racing prohibited.
37. Section 321.288 – Control of vehicle; reduced speed.
38. Section 321.295 – Limitation on bridge or elevated structures.
39. Section 321.297 – Driving on right-hand side of roadways; exceptions.
40. Section 321.298 – Meeting and turning to right.
41. Section 321.299 – Overtaking a vehicle.
42. Section 321.302 – Overtaking and passing.
43. Section 321.303 – Limitations on overtaking on the left.
44. Section 321.304 – Prohibited passing.
45. Section 321.306 – Roadways laned for traffic.
46. Section 321.307 – Following too closely.
47. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
48. Section 321.309 – Towing; convoys; drawbars.
49. Section 321.310 – Towing four-wheel trailers.
50. Section 321.312 – Turning on curve or crest of grade.
51. Section 321.313 – Starting parked vehicle.
52. Section 321.314 – When signal required.
53. Section 321.315 – Signal continuous.
54. Section 321.316 – Stopping.
55. Section 321.317 – Signals by hand and arm or signal device.
56. Section 321.319 – Entering intersections from different highways.
57. Section 321.320 – Left turns; yielding.
58. Section 321.321 – Entering through highways.
59. Section 321.322 – Vehicles entering stop or yield intersection.
60. Section 321.323 – Moving vehicle backward on highway.
61. Section 321.323A – Approaching certain stationary vehicles.
63. Section 321.324A – Funeral processions.
64. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
65. Section 321.330 – Use of crosswalks.
66. Section 321.332 – White canes restricted to blind persons.
68. Section 321.340 – Driving through safety zone.
69. Section 321.341 – Obedience to signal of train.
70. Section 321.342 – Stop at certain railroad crossings; posting warning.
71. Section 321.343 – Certain vehicles must stop.
72. Section 321.344 – Heavy equipment at crossing.
73. Section 321.344B – Immediate safety threat; penalty.
74. Section 321.354 – Stopping on traveled way.
75. Section 321.359 – Moving other vehicle.
76. Section 321.362 – Unattended motor vehicle.
77. Section 321.363 – Obstruction to driver’s view.
78. Section 321.364 – Preventing contamination of food by hazardous material.
79. Section 321.365 – Coasting prohibited.
80. Section 321.367 – Following fire apparatus.
81. Section 321.368 – Crossing fire hose.
82. Section 321.369 – Putting debris on highway.
83. Section 321.370 – Removing injurious material.
84. Section 321.371 – Clearing up wrecks.
85. Section 321.372 – School buses.
86. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
88. Section 321.382 – Upgrade pulls; minimum speed.
89. Section 321.383 – Exceptions; slow vehicles identified.
90. Section 321.384 – When lighted lamps required.
91. Section 321.385 – Head lamps on motor vehicles.
92. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
93. Section 321.387 – Rear lamps.
94. Section 321.388 – Illuminating plates.
95. Section 321.389 – Reflector requirement.
96. Section 321.390 – Reflector requirements.
97. Section 321.392 – Clearance and identification lights.
98. Section 321.393 – Color and mounting.
99. Section 321.394 – Lamp or flag on projecting load.
100. Section 321.395 – Lamps on parked vehicles.
101. Section 321.398 – Lamps on other vehicles and equipment.
102. Section 321.402 – Spot lamps.
103. Section 321.403 – Auxiliary driving lamps.
104. Section 321.404 – Signal lamps and signal devices.
106. Section 321.405 – Self-illumination.
107. Section 321.406 – Cowl lamps.
108. Section 321.408 – Back-up lamps.
109. Section 321.409 – Mandatory lighting equipment.
110. Section 321.415 – Required usage of lighting devices.
112. Section 321.418 – Alternate road-lighting equipment.
113. Section 321.419 – Number of driving lamps required or permitted.
114. Section 321.420 – Number of lamps lighted.
115. Section 321.421 – Special restrictions on lamps.
117. Section 321.423 – Flashing lights.
118. Section 321.430 – Brake, hitch and control requirements.
119. Section 321.431 – Performance ability.
120. Section 321.432 – Horns and warning devices.
121. Section 321.433 – Sirens, whistles and bells prohibited.
122. Section 321.434 – Bicycle sirens or whistles.
123. Section 321.436 – Mufflers, prevention of noise.
124. Section 321.437 – Mirrors.
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127. Section 321.440 – Restrictions as to tire equipment.
128. Section 321.441 – Metal tires prohibited.
129. Section 321.442 – Projections on wheels.
130. Section 321.444 – Safety glass.
131. Section 321.445 – Safety belts and safety harnesses; use required.
132. Section 321.446 – Child restraint devices.
133. Section 321.449 – Motor carrier safety regulations.
134. Section 321.450 – Hazardous materials transportation.
136. Section 321.455 – Projecting loads on passenger vehicles.
137. Section 321.456 – Height of vehicles; permits.
138. Section 321.457 – Maximum length.
139. Section 321.458 – Loading beyond front.
140. Section 321.460 – Spilling loads on highways.
141. Section 321.461 – Trailers and towed vehicles.
142. Section 321.462 – Drawbars and safety chains.
143. Section 321.463 – Maximum gross weight.
145. Section 321.466 – Increased loading capacity; reregistration.

**62.02 VEHICLES ON SIDEWALKS.** The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway. EXCEPTION: This prohibition does not apply to battery powered wheelchairs, scooters or similar mobility assistive devices designed for and used by persons with mobility disabilities.

*(Ord. 806 – Sep. 09 Supp.)*

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

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

**62.05 TAMPERING WITH VEHICLE.** It is unlawful for any person, either individually or in association with one or more other persons, 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.
62.06 OPEN CONTAINERS IN MOTOR VEHICLES.

1. Drivers. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage.
   \[(Code of Iowa, Sec. 321.284)\]

2. Passengers. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar or other receptacle containing an alcoholic beverage.
   \[(Code of Iowa, Sec. 321.284A)\]

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

62.07 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.

62.08 RECKLESS DRIVING. No person shall drive any vehicle in such manner as to indicate a willful or a wanton disregard for the safety of persons or property.
   \[(Code of Iowa, Sec. 321.277)\]

62.09 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.

[The next page is 309]
CHAPTER 63
SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Cemeteries and Parking Lots
63.04 Special Speed Zones
63.05 Minimum Speed
63.06 Emergency Vehicles

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

63.04 SPECIAL SPEED ZONES. 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 25 MPH Speed Zones. A speed in excess of twenty-five miles per hour is unlawful on any of the following designated streets or parts thereof.

   A. Northwest 62nd Avenue from a point 250 feet west of the Wallace Elementary School west property line to a point 450 feet east of the pedestrian crosswalk in front of Lawson Elementary School when a light is flashing.

   (Ord. 972 – Nov. 17 Supp.)

   B. Northwest 86th Street from a point 250 feet south of the centerline of Lyndhurst Drive to a point 100 feet north of the centerline of NW Newgate Drive when a light is flashing.
C. Northwest 100th Street from a point 150 feet north of the centerline of White Oak Lane to a point 425 feet north of the centerline of Windsor Parkway when a light is flashing.

D. Northwest 54th Street from 7200 block 438 east to 455 feet to the west of the entrance to Lew Clarkson Park when a light is flashing.

(Ord. 861 – Aug. 12 Supp.)

E. Northwest 100th Street from 200 feet south of the intersection of Newport Vista Drive to 350 feet north of the intersection of Ashton Drive when a light is flashing.

(Ord. 972 – Nov. 17 Supp.)

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

A. Johnston Drive within the City.

B. Merle Hay Road within the City.

C. Pioneer Parkway within the City.

D. Northwest Beaver Drive from the south City limits north to 7800 Northwest Beaver Drive.

E. Northwest 54th Avenue from the east City limits to the west City limits.

F. Northwest 62nd Avenue from the west City limits to Northwest Beaver Drive.

(Ord. 972 – Nov. 17 Supp.)

G. Northwest 70th Avenue from NW Beaver Drive to Merle Hay Road.

(Ord. 850 – Dec. 11 Supp.)

H. Northwest 86th Street from the south City limits to the north City limits except for the special 25 MPH zone established in paragraph (1)(B) of this section.

I. Northwest 100th Street from the south City limits to NW 70th Avenue except for the special 25 mph zone established in paragraph (1)(C) & (1)(E) of this section.

(Ord. 972 – Nov. 17 Supp.)

J. Northwest 66th Avenue from Northwest Beaver Drive to the east City limits.

K. Northwest 78th Street between Northwest 100th and Northwest 107th Street.

(Ord. 861 – Aug. 12 Supp.)

3. Special 40 MPH Speed Zones. A speed in excess of forty miles per hour is unlawful on any of the following designated streets or parts thereof.

A. Northwest Beaver Drive from 7800 Northwest Beaver Drive to the north City limits.

B. Northwest 70th Avenue from NW 86th Street to the west city limits.

C. Northwest 100th Street from NW 70th Avenue to the north city limits.

D. NW 107th Street from NW 70th Avenue to NW 78th Street.

(B, C & D - Ord. 972 – Nov. 17 Supp.)
4. Special 45 MPH Speed Zones. A speed in excess of forty-five miles per hour is unlawful on any of the following designated streets or parts thereof.

A. Northwest 70th Avenue from Merle Hay Road to NW 86th Street.

(Ord. 891 – June 15 Supp.)

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

(Code of Iowa, Sec. 321.294)

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

(Code of Iowa, Sec. 321.231)

(Ord. 861 – Aug. 12 Supp.)
[The next page is 317]
CHAPTER 64

TURNING REGULATIONS

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

(Code of Iowa, Sec. 321.311)

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

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

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

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

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection; however, U-turns are prohibited within a business district and at intersections where there are automatic traffic signals. A driver shall not make a U-turn unless such turn can be made safely and without interfering with other traffic.

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

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

## STOP OR YIELD REQUIRED

<table>
<thead>
<tr>
<th>Stop Location</th>
<th>Travel Direction</th>
<th>Intersecting Street</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Ashland Place</td>
<td>East</td>
<td>Greendale Road</td>
</tr>
<tr>
<td>2. Ashley Circle</td>
<td>East</td>
<td>Foxboro Road</td>
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<tr>
<td>3. Ashley Drive</td>
<td>West</td>
<td>Foxboro Road</td>
</tr>
<tr>
<td>4. Ashley Place</td>
<td>West</td>
<td>NW 78th Court</td>
</tr>
<tr>
<td>5. Ashton Drive</td>
<td>West</td>
<td>NW 100th Street</td>
</tr>
<tr>
<td>6. Ashton Drive</td>
<td>East</td>
<td>NW 97th Street</td>
</tr>
<tr>
<td>7. Aubrey Court</td>
<td>South</td>
<td>Morningside Drive</td>
</tr>
<tr>
<td>8. Barnsley</td>
<td>West</td>
<td>Foxboro Road</td>
</tr>
<tr>
<td>9. Beaverbrooke Blvd.</td>
<td>East</td>
<td>NW 104th Court</td>
</tr>
<tr>
<td>10. Beaverbrooke Blvd.</td>
<td>West</td>
<td>NW 107th Court</td>
</tr>
<tr>
<td>11. Bentley Place</td>
<td>North</td>
<td>Cowden Drive</td>
</tr>
<tr>
<td>12. Blackstone</td>
<td>East</td>
<td>Kings Row</td>
</tr>
<tr>
<td>13. Blackstone</td>
<td>West</td>
<td>Kings Row</td>
</tr>
<tr>
<td>14. Bramwell Court</td>
<td>Southeast</td>
<td>NW Newgate Drive</td>
</tr>
<tr>
<td>15. Brandywine</td>
<td>North</td>
<td>Foxboro Road</td>
</tr>
<tr>
<td>16. Brandywine</td>
<td>East</td>
<td>Kings Row</td>
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<tr>
<td>17. Brandywine</td>
<td>West</td>
<td>Kings Row</td>
</tr>
<tr>
<td>18. Brandywine</td>
<td>Northeast</td>
<td>Wellington Boulevard</td>
</tr>
<tr>
<td>19. Brandywine</td>
<td>Southwest</td>
<td>Wellington Boulevard</td>
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<tr>
<td>20. Brentwood Circle</td>
<td>South</td>
<td>South Winwood Drive</td>
</tr>
<tr>
<td>21. Briargate</td>
<td>Southwest</td>
<td>Foxboro Road</td>
</tr>
<tr>
<td>22. Brightwater Drive</td>
<td>East</td>
<td>NW 96th Street</td>
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<tr>
<td>23. Brightwater Drive</td>
<td>South</td>
<td>Valley Parkway</td>
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<tr>
<td>24. Brook Ridge Court</td>
<td>North</td>
<td>Brook Ridge Drive</td>
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<tr>
<td>25. Brook Ridge Drive</td>
<td>West</td>
<td>NW 86th Street</td>
</tr>
<tr>
<td>26. Caldwell Circle</td>
<td>East</td>
<td>Foxboro Road</td>
</tr>
</tbody>
</table>

65.01 **STOP INTERSECTIONS.** The following intersections are designated as stop intersections. *Stop Location* indicates the street upon which the stop sign shall be located. *Travel Direction* indicates the direction of travel that will be required to stop at the designated intersection. *Intersecting Street* indicates the street intersecting with the stop location street.

*Code of Iowa, Sec. 321.345*
<p>| 27. | Candleridge Circle | West | NW 98th Street |
| 28. | Canterbury Place | North | NW 74th Place |
| 29. | Capitol View Court | South | Rittger’s Court |
| 30. | Cardiff Court | South | NW Newgate Drive |
| 31. | Carey Court | North | Oak Crest Boulevard |
| 32. | Carmel Circle | East | NW 95th Street |
| 33. | Carmel Drive | West | NW 95th Street |
| 34. | Catalina Drive | East | NW 97th Street |
| 35. | Catalina Drive | West | NW 100th Street |
| 36. | Catalina Drive | East | NW 100th Street |
| 37. | Catalina Drive | West | NW 103rd Street |
| 38. | Catalina Drive | West | NW 106th Street |
| 39. | Century Way East Private Drive | South | Windsor Parkway |
| 40. | Century Way West Private Drive | West | NW 100th Street |
| 41. | Century Woods Circle | East | NW 94th Street |
| 42. | Chambery Boulevard | Northeast | Foxboro Road |
| 43. | Charles Dickens Court | West | Lewis Carroll Court |
| 44. | Chatham Circle | West | Foxboro Road |
| 45. | Chatham Street | North | Foxboro Road |
| 46. | Cheldon Court | South | NW Newgate Drive |
| 47. | Columbine Drive (north) | Southwest | Pioneer Parkway |
| 48. | Columbine Drive (south) | South | Pioneer Parkway |
| 49. | Compton Court | South | NW Newgate Drive |
| 50. | Corporate Drive (north) | Northeast | Pioneer Parkway |
| 51. | Corporate Drive (south) | East | Pioneer Parkway |
| 52. | Country Ridge Lane | West | NW Beaver Drive |
| 53. | Crabapple Lane | East | South Winwood Drive |
| 54. | Crabapple Lane | South | South Winwood Drive |
| 55. | Crescent Chase | East | NW 86th Street |
| 56. | Crescent Chase | West | NW 86th Street |
| 57. | Crescent Chase | Northeast | Wellington Boulevard |
| 58. | Crescent Chase | Southwest | Wellington Boulevard |
| 59. | Crescent Chase (east of NW 86th Street) | North | NW 62nd Avenue |
| 60. | Crescent Chase (west of NW 86th Street) | North | NW 62nd Avenue |
| 61. | Dawn Drive | West | Daybreak Road |
| 62. | Daybreak Road | North | NW 90th Avenue |
| 63. | Dewey Place | West | NW 49th Street |
| 64. | Dogwood Lane (north) | Southwest | North Winwood Drive |
| 65. | Dogwood Lane (south) | Southwest | North Winwood Drive |
| 66. | Dunmore Circle | South | Marnewood Drive |
| 67. | Durham Circle (north) | Northwest | Chambery Boulevard |
| 68. | Durham Circle (south) | Northwest | Chambery Boulevard |</p>
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<th>Direction</th>
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<td>River Bend</td>
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<td>Northeast</td>
<td>Valley Parkway</td>
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</table>

**CODE OF ORDINANCES, JOHNSTON, IOWA**

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<table>
<thead>
<tr>
<th></th>
<th>Street Name</th>
<th>Direction</th>
<th>Cross Street</th>
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<td>111.</td>
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65.02 **FOUR-WAY STOP INTERSECTIONS.** Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:

(Code of Iowa, Sec. 321.345)

1. Northglenn Way and Morningside Drive/Morningside Circle.
2. NW Beaver Drive and Merle Hay Road.
3. NW 66th Avenue and NW 54th Court.
4. NW 93rd Street/NW 94th Street and Windsor Parkway.
5. NW 100th Street and NW 62nd Avenue.

65.03 **YIELD INTERSECTIONS.** The following intersections are designated as yield intersections. *Yield Location* indicates the street upon which the yield sign shall be located.
Travel Direction indicates the direction of travel that will be required to yield at the designated intersection. Intersecting Street indicates the street intersecting with the yield location street.  
(Code of Iowa, Sec. 321.345)

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<td>Oakridge Place</td>
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<td>Pioneer Carver Entrance</td>
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<td>Skyline Circle</td>
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<td>Wild Flower Court</td>
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<td>Country Ridge Lane</td>
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<td>Wild Flower Place</td>
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<td>Wild Flower Court</td>
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(Ord. 873 – Oct. 13 Supp.)
65.04 OFFICIAL TRAFFIC CONTROLS. Every driver shall observe and comply with the directions provided by official traffic control signals at the following intersections:

(Code of Iowa, Sec. 321.256)

1. Merle Hay Road and NW 62nd Avenue.
2. Merle Hay Road and Winwood Drive.
4. Merle Hay Road and Johnston Drive.
5. Merle Hay Road and Northglenn Drive.
6. NW Beaver Drive and Johnston Drive.
7. NW Beaver Drive and NW 66th Avenue.
8. NW 86th Street and NW 62nd Avenue.
9. At a point along Merle Hay Road 1380 feet south of the northeast corner of Section 13-79-25.
10. NW 70th Avenue at its entrance with the private Camp Dodge entrance 4,000 feet west of Merle Hay Road.
11. Merle Hay Road at the private drives 250 feet north of NW 57th Avenue.
12. Merle Hay Road at the south intersection of Murray Circle.
13. NW Beaver Drive and NW 62nd Avenue.
14. NW 86th Street and NW 54th Avenue.
15. NW 86th Street and Birchwood Court.
16. NW 86th Street and Chambery Boulevard.
17. NW 62nd Avenue and Meadowcrest Drive/west Johnston High School Private Drive.
18. NW 86th Street and Windsor Parkway.
19. NW 70th Avenue and Merle Hay Road.
20. NW 62nd Avenue and NW 94th Street.

(Ord. 873 – Oct. 13 Supp.)

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

(Code of Iowa, Sec. 321.249)

1. On NW 62nd Avenue, 135 feet west of NW 54th Court.
2. On NW 100th Street at the school crosswalk on the south side of the intersection at Windsor Parkway.
3. On NW 54th Avenue at the school crosswalk on the west side of the intersection entrance to Lew Clarkson Park.

(Ord. 855 – Aug. 12 Supp.)
4. On Windsor Parkway, at the school crosswalk on the east and west side of the intersection at Century Way.  
   *(Ord. 875 – Oct. 13 Supp.)*  

5. On Windsor Parkway at the school crosswalk at NW 97th Street.  
   *(Ord. 949 – Nov. 16 Supp.)*  

65.06 **STOP BEFORE CROSSING SIDEWALK.** The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.  
   *(Code of Iowa, Sec. 321.353)*  

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

65.08 **YIELD TO PEDESTRIANS IN CROSSWALKS.** Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.  
   *(Code of Iowa, Sec. 321.327)*  

65.09 **TEMPORARY STOP SIGNS.** The Council, by resolution, may establish temporary stops when necessary due to natural disasters, substandard roadway conditions or to provide for the safety of motorists and workers during periods of construction.
CHAPTER 66
LOAD AND WEIGHT RESTRICTIONS

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

– NONE –

66.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Public Works Department 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)

66.05 THROUGH TRUCK TRAFFIC PROHIBITED.

1. Through truck traffic is prohibited on the following streets:
   A. NW 55\textsuperscript{th} Avenue from NW Beaver Drive to Merle Hay Road.
   B. NW 57\textsuperscript{th} Avenue from NW Beaver Drive to Merle Hay Road.
   C. NW 88\textsuperscript{th} Court south of NW 54\textsuperscript{th} Avenue.
   D. NW 53\textsuperscript{rd} Avenue from NW 88\textsuperscript{th} Court to NW 86\textsuperscript{th} Street.
   E. NW 106\textsuperscript{th} Street from NW 62\textsuperscript{nd} Avenue south to Johnston City limits.
2. Exceptions. The provisions of this section do not apply to automobiles, pickup trucks, recreational vehicles, trucks making deliveries or providing a service to residences or businesses on these streets, farm equipment going to or from agricultural areas located on these streets, City trucks and vehicles, and utility trucks conducting maintenance work on these streets.

(Ord. 817 – Mar. 10 Supp.)
CHAPTER 67

PEDESTRIANS

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

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

ONE-WAY TRAFFIC

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

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

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

– NONE –

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

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than twenty-four (24) consecutive hours, unless otherwise limited under the provisions of this chapter, 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
delivered goods or services.

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

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

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

17. Area Between Curb Line and Lot Line. That area of the public right-of-way
between the curb line or edge of the roadway and the lot line, except upon approval of
such parking, by City staff or the Council, for a special event.

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

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

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

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

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

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

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

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

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

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

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

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

1. Huntingwood, on the north side, from Foxboro Road around cul-de-sac.

2. Briargate, on the north side, from Foxboro Road and around cul-de-sac.

3. Foxboro Road, on the west side, between Briargate and Heatherbow.

4. Foxboro Road, on the south and west sides, from Crescent Chase to Briargate.

5. Heatherbow, on the north side, from Foxboro Road and around cul-de-sac.

6. Nottingham, on the south and east sides, south of Foxboro Road and around cul-de-sac.

7. Brandywine, on the south and west sides, south of Foxboro Road and around cul-de-sac.

8. Ashland Place, on the north side, from Greendale Road and around cul-de-sac.

9. Brentwood Circle, on the west side, from South Winwood Drive and around cul-de-sac.

10. Crabapple Lane, on the west and north sides, from South Winwood Drive to South Winwood Drive.

11. Greywood Circle, on the west side, from North Winwood Drive and around cul-de-sac.

12. Winwood Drive, on the north side, between Merle Hay Road and Meadow Crest Drive.

13. Ceres Circle, on the north side, from North Winwood Drive and around cul-de-sac.

14. Village Circle, on the south side, from Greendale Road and around cul-de-sac.

15. Hawthorn Court, on the interior, from North Winwood Drive to South Winwood Drive.

16. Corporate Drive, on the west side, from Pioneer Parkway to Pioneer Parkway.
17. Terrace Drive, on the east side, from Pioneer Parkway to 6125 Terrace Drive.
18. Terrace Drive, on the north side, from 6125 Terrace Drive to 6109 Terrace Drive.
19. Terrace Drive, on the west side, from 6109 Terrace Drive to Pioneer Parkway.
20. Somerset Place, on the south side, from Greendale Road and around cul-de-sac.
21. Linden Court, on the interior, from South Winwood Drive to South Winwood Drive.
22. Mapletree Circle, around interior of cul-de-sac.
23. Dogwood Circle, on the west side, from Dogwood Lane and around cul-de-sac.
24. Hickory Court around island of cul-de-sac.
25. Redbud Court, around interior of cul-de-sac.
26. North Winwood Drive, on the north side, from 6427 North Winwood Drive to 6473 North Winwood Drive.
27. NW 54th Court, on the east side, from NW 66th Avenue and around cul-de-sac.
28. Merle Hay Road, on both sides, between NW 60th Avenue and Winwood Drive.
29. Merle Hay Road, on both sides, between NW 63rd Place and NW 66th Avenue.
30. NW 64th Place, on both sides, from Merle Hay Road to NW 56th Street.
31. NW Coburn Lane, on the east side, from NW 54th Court to NW Beaver Drive.
32. NW 54th Court, on the west side, and around cul-de-sac south of NW 63rd Place.
33. NW 70th Place, on the north side, from NW Coburn Lane and around cul-de-sac.
34. Forest Drive, on the east side, from NW Beaver Drive to westbound NW 71st Place.
35. NW 71st Place, on the north side, from Forest Drive and around cul-de-sac.
36. High Point Circle, on the west side, from NW Beaver Drive and around cul-de-sac.
37. Country Ridge Lane, on the north side, from Wild Flower Court and around cul-de-sac.
38. Wild Flower Place, on the north side, from Wild Flower Court and around cul-de-sac.
39. Oakwood Hills Drive, on the north side, from Wild Flower Court and around cul-de-sac.
40. Cul-de-sac at end of NW 85th Place.
41. Theresa Drive, on the north side, from James Francis Place and around cul-de-sac.
42. Cul-de-sac at end of Harbor Oaks Drive.

43. NW 52nd Court, on the west side, and around cul-de-sac south of NW 64th Place.

44. NW 51st Street, on the east side, between NW 66th Avenue and NW Beaver Drive.

45. Cul-de-sac at end of NW 52nd Court north of NW 68th Avenue.

46. Cul-de-sac at end of Lakepoint Circle south of Columbine Drive.

47. Cul-de-sac at end of NW 65th Avenue east of NW 48th Street.

48. NW 66th Avenue, on the north side, from Merle Hay Road to NW 51st Street.

49. Cul-de-sac at end of NW Coburn Lane north of NW Beaver Drive.

50. NW 59th Court, on the west side, south of NW 62nd Avenue and around cul-de-sac.

51. Weybridge, on the north side, from Kings Row and around cul-de-sac.

52. Blackstone, on the north side, from Kings Row and around cul-de-sac.

53. Heatherbow, on the north side, southwest from Foxboro and around cul-de-sac.

54. 64th Place, on the north side, from NW 51st Street to NW 54th Court.

55. NW 86th Street, on both sides, from the south corporate limit to NW 70th Avenue.

56. NW 55th Avenue, on south side from Merle Hay Road to NW Beaver Drive.

57. Newborn Circle on the north side.

58. Chatham Circle on the north side.

59. Foxboro Drive, on the west side, from NW 54th Avenue to 5800 Foxboro Drive.

60. NW 54th Court, on the east side, from NW 60th Avenue to NW 62nd Avenue.

61. NW 66th Avenue, on the south side, extending along the frontage of certain lots within Hyperion Heights Plat 1 from a point 40 feet west of the NE corner of Lot 55 to a point 45 feet east of the same lot corner.

62. Barnsley Drive, on the north and east sides, from Ashley Drive to Foxboro Road.

63. Oakdale Drive, on the south side, from the 8700 block to the 8900 block.

64. Stoney Creek Court on both sides.

65. Lew Clarkson Park Entrance Road, on the west side, from NW 54th Avenue north to parking lot. Additionally, along the north parking lot fence and the west parking lot fence.

66. NW 78th Avenue, on the portion from NW Beaver Drive to 2,780 feet eastward, lying within the City of Johnston.
67. Windsor Parkway, on the north side, from NW 100th Street to NW 106th Street.
68. Stonebridge Drive, on the north side, from NW 103rd Street to NW 106th Street.
69. Stonecrest Drive, on the north and west sides, from NW 103rd Street to Stonebridge Drive.
70. NW 106th Street, on the east side, from 5802 to 5942 NW 106th Street.
71. NW 103rd Street, on the east side, from 5800 to 5933 NW 103rd Street.
72. Mark Twain Court, on the east side, north of Morningside Drive.
73. Jane Austin Court, on the east side, north of Morningside Drive.
74. Henry James Court, on the east side, north of Morningside Drive.
75. Meadow Circle, on the north side, east of NW 49th Street.
76. Prairie Place, on the north side, east of NW 49th Street.
77. NW 49th Street, on the north side and east sides, from NW 62nd Avenue to NW 48th Street. NW 49th Street on the west side from NW 62nd Avenue to Meadow Circle.

(Ord. 869 – Aug. 12 Supp.)
78. Dewey Place, on the north side, from NW 49th Street to NW 48th Street.
79. NW 48th Street, on the east side, from Dewey Place to 6242 NW 48th Street.
80. Sunshine Circle, on the south side, to NW 48th Street including the bulb of the cul-de-sac.
81. Rose Circle, on the north side, to NW 48th Street including the bulb of the cul-de-sac.
82. NW 64th Street, on the south side, from NW 48th Street to NW Beaver Drive.
83. NW 48th Street, on the east side, within Johnston Meadows Plat 2.
84. NW 60th Avenue, on the north side, within Adam Ridge.
85. 106th Street, on the east side, within Adam Ridge.
86. 103rd Street, on the east side, within Adam Ridge.
87. 61st Avenue, on the south side, from NW 100th Street to NW 103rd Street.
88. 83rd Avenue, on the north side, including the bulb of the cul-de-sac.
89. Woodfield Road, on the east side, between NW 83rd Avenue and NW 84th Avenue.
90. NW 84th Avenue, on the north side, east of NW Beaver Drive.
91. NW 84th Avenue, on the south side, from Woodfield Road to Orchard Drive.
92. NW 69th Street, on the east side, north of NW 84th Avenue.
93. Ridgecrest Circle, on the east side, including the bulb of the cul-de-sac.
94. Augustine Court, on the east side, including the bulbs of the cul-de-sacs.
95. Wooded Pointe Drive, on the north side, east of NW 86th Street.
96. NW Newgate Drive, on the north side, east of NW 86th Street.
97. Brook Ridge Drive, on the north side, east of NW 86th Street.
98. Scenic Ridge Court, on the east side, from Brook Ridge Drive to Prairie Ridge Drive.
99. Prairie Ridge Drive, on the north side, east of NW 86th Street.
100. Brook Ridge Court, on the east side, including the bulb of the cul-de-sac.
101. Catalina Drive, on the north side, from NW 100th Street to Providence Point Park east boundary, and from Providence Point Park west boundary to NW 106th Street. South side of Catalina Drive from address 10234 west to address 10402.  
   (Ord. 869 – Aug. 12 Supp.)
102. NW 103rd Street, on the east side, north of NW 62nd Avenue.
103. Providence Court, on the north side, including the bulb of the cul-de-sac.
104. NW 102nd Street, on the east side, north of Catalina Drive.
105. Longboat Drive, on the north side, west of NW Beaver Drive.
106. Friestad Court, on the east side, including the bulb of the cul-de-sac within Sunset Ridge Pointe Plat 1.
107. Overlook Court, on the east side, including the bulb of the cul-de-sac within Sunset Ridge Pointe Plat 1.
108. Daybreak Road, on the east side, west of Longboat Drive.
109. NW 93rd Street, on the east side, within Hidden Hills Plat 1.
110. NW 69th Avenue, on the north side, within Hidden Hills Plat 1.
111. Pioneer Parkway, on the north side, east of Merle Hay Road.
112. Pioneer Parkway, on the south side, from Merle Hay Road to Boston Court (private drive).
113. NW 78th Court, on the east side, north of NW 54th Avenue.
   (Ord. 780 – Feb. 08 Supp.)
114. Pinewood Court on the east side.
   (Ord. 808 – Sep. 09 Supp.)
115. NW 59th Court, on the east side, north of NW 62nd Avenue. Parking is allowed on the west side of the street.
   (Ord. 823 – Aug. 10 Supp.)
116. On the north side of Windsor Parkway, at the school crosswalk on the east side of the intersection twenty feet from Century Way.
   (Ord. 12-876 – Oct. 13 Supp.)
117. On the west shoulder of NW 59th Ct. 335 feet north of the centerline of the intersection of NW 62nd Ave. and NW 59th Ct.
118. On the west shoulder of NW 59th Ct. 1,615 feet north of the centerline of the intersection of NW 62nd Ave. and NW 59 Ct.
   (Ord. 12-878 – Oct. 13 Supp.)
119. NW 52nd Street, on the west side, from the NW 57th Avenue, south to end of the block.  
*(Ord. 910 – June 15 Supp.)*

120. Lewis Carroll Court, on the east side and around the cul-de-sac.  

121. Charles Dickens Court on the north side and around the cul-de-sac.  
*(Ord. 936 – Nov. 16 Supp.)*

122. NW 98th Street between Windsor Parkway and NW 97th Street, on the north and west side.  

123. Trace Court, on the southwest side and around the cul-de-sac.  
*(122 & 123 - Ord. 956 – Nov. 17 Supp.)*

**69.09 NO PARKING ON NORTH OR EAST SIDE OF STREETS.** For all streets accepted by the City Council on or after January 1, 2006, a no parking zone is hereby established on the north side of all east/west streets and on the east side of all north/south streets, including all cul-de-sac bulbs, unless otherwise stated herein:

1. Parking is permitted in the cul-de-sac bulb on NW 78th Court.  

2. Parking is only permitted on the north side of NW 58th Avenue from NW 50th Street to NW 52nd Street.  
*(Ord. 780 – Feb. 08 Supp.)*

3. Parking is permitted on the north side of Pineridge Street between NW 52nd Street and Four Pines Street.  
*(Ord. 808 – Sep. 09 Supp.)*

4. Parking is permitted on the north side of NW 63rd Place only within the fourteen designated on street parking stalls located between NW 59th Court and Merle Hay Road. Parking shall not be permitted along the north side of NW 63rd Place east of the designated spots to Merle Hay Road, or west of the designated spots to NW 59th Court.  

5. Parking shall be prohibited on the south side of NW 63rd Place between NW 59th Court and Merle Hay Road.  
*(Ord. 949 – Nov. 16 Supp.)*

**69.10 TRUCK PARKING LIMITED.** No person shall park a motor home, road tractor unit, semi trailer, trailer, travel trailer, implement of husbandry, tractor or truck having a freight capacity greater than one ton at any time upon any portion of a public street abutting property zone R-1, R-1A, R-2, R-3, R-4 or PUD-R.

**69.11 SNOW REMOVAL.** No person shall park, abandon or leave unattended any vehicle on any public street or alley during snow removal operations unless the snow has been removed or plowed from the street or alley.

**69.12 PARKING LIMITED TO TWO HOURS.** It is unlawful to park any vehicle for a continuous period of more than two hours upon the following designated streets:

1. South side of NW 62nd Avenue adjacent to 6000 NW 62nd Avenue, between the hours of 7 a.m. and 6 p.m.  
*(Ord. 946 – Nov. 16 Supp.)*
CHAPTER 70
TRAFFIC CODE ENFORCEMENT PROCEDURES

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of twenty-five dollars ($25.00) for snow removal and snow route parking violations. The simple notice of a fine shall be in the amount of fifteen dollars ($15.00) for all other violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars ($5.00). A 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 fine shall be grounds for the filing of a complaint in District Court.

(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 a place designated by the City, under the circumstances hereinafter enumerated:

1. Disabled Vehicle. When a vehicle is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.
   
   (Code of Iowa, Sec. 321.236 [1])

2. Illegally Parked Vehicle. When any vehicle is left unattended and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.
   
   (Code of Iowa, Sec. 321.236 [1])

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

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time.
   
   (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. The purpose of this chapter is to regulate the operation of all-terrain vehicles and snowmobiles within the City.

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

1. “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 eight hundred fifty (850) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. Two-wheeled, off-road motorcycles shall be considered all-terrain vehicles only for the purpose of titling and registration. An operator of a two-wheeled, off-road motorcycle is exempt from the safety instruction and certification program requirements of Section 321I.24 and 321I.25 of the Code of Iowa.
   (Code of Iowa, Sec. 321I.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 with a width of forty-eight (48) inches or less, or any combination of runners, skis or tread, and is designed for travel on snow or ice. “Snowmobile” does not include an all-terrain vehicle which has been altered or equipped with runners, skis, belt-type tracks or treads.
   (Code of Iowa, Sec. 321G.1[18])

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

75.04 OPERATION OF SNOWMOBILES. The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.
   (Code of Iowa, Sec. 321G.9[4a])

2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:
A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

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

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

(1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

(2) The snowmobile is brought to a complete stop before crossing the street;

(3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and

(4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

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

3. Railroad Right-of-way. Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321G.13[1h])

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

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

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

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

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs may be operated on streets only in accordance with Section 321.234A of the Code of Iowa or on such streets as may be designated by resolution of the Council for the sport of driving ATVs.

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

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

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

3. Railroad Right-of-way. ATVs shall not be operated on an operating railroad right-of-way. An ATV 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. 321I.14[1h])

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

5. Sidewalk or Parking. ATVs 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.”

75.06 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. The owner of an ATV or snowmobile shall be liable for any such injury or damage only if the owner was the operator of the ATV or snowmobile at the time the injury or damage occurred or if the operator had the owner’s consent to operate the ATV or snowmobile at the time the injury or damage occurred.

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

75.07 ACCIDENT REPORTS. Whenever an ATV or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars ($1000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 & 321I.11)
CHAPTER 76

BICYCLE REGULATIONS

76.01 Definitions

1. “Bicycle” means either of the following:
   A. A device having up to four wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.
   B. A device having up to four wheels with fully operable pedals and an electric motor of one horsepower or less.

2. “Multi-use trail” means a way or place, the use of which is controlled by the City as an owner of real property, designated by the multi-use recreational trail maps, as approved by resolution by the City Council, and no multi-use trail shall be considered as a street or highway.

76.02 Alteration of Serial Frame Number. It shall be unlawful for any person to willfully or maliciously remove, destroy, mutilate or alter the manufacturer's serial frame number of any bicycle.

76.03 Sirens and Whistles Prohibited. A bicycle shall not be equipped with and a person shall not use upon a bicycle any siren or whistle. This section shall not apply to bicycles ridden by peace officers in the line of duty.

76.04 Lamps and Reflectors.

1. Every bicycle ridden at any time from sunset to sunrise and at such other times when conditions such as fog, snow, sleet, or rain provide insufficient lighting to render clearly discernible persons and vehicles on the highway at a distance of three hundred feet ahead shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least three hundred feet to the front.

2. Every bicycle shall be equipped with a lamp on the rear exhibiting a red light visible from a distance of three hundred feet to the rear; except that a red reflector may be used in lieu of a rear light.

3. Equivalent equipment such as headlamps and red light attachments to the arm or leg may be used in lieu of a lamp on the front and a red light on the rear of the bicycle.

4. A peace officer riding a police bicycle is not required to use either front or rear lamps if duty so requires.

(Code of Iowa, Sec. 321.397)
76.05 STOPPING. Every bicycle used upon the City streets, sidewalks, highways, park roads or multi-use trails shall be able to come to a complete stop within a safe distance.

(Code of Iowa, Sec. 321.236 [10])

76.06 APPLICABILITY OF MOTOR VEHICLE LAWS. Every person operating a bicycle upon the City streets, highways, park roads, or multi-use trails shall be subject to this chapter and other City traffic ordinances and the state statutes applicable to the drivers of motor vehicles, except as to special regulations in this chapter and except as to those provisions of ordinances and statutes which by their nature can have no application or those provisions for which specific exceptions have been set forth regarding police bicycles.

(Code of Iowa, Sec. 321.234)

76.07 OBEDIENCE TO SIGNALS. Every person operating a bicycle shall obey the directions of official traffic signals, signs and other control devices applicable to other vehicles, unless otherwise directed by a police officer, and shall obey direction signs relative to turns permitted, unless such person dismounts from the bicycle, when he or she shall then obey the regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

76.08 IMPROPER RIDING.

1. A person propelling a bicycle on any street, sidewalk, highway, park road or multi-use recreational trail, shall not ride other than upon or astride a permanent and regular seat attached to the bicycle and shall not use a bicycle to carry more persons at one time than the number of persons for which the bicycle is designed and equipped.

2. This section does not apply to the use of a bicycle in a parade or special event authorized by the City.

(Code of Iowa, Sec. 321.234 [3 and 4])

76.09 CARRYING PACKAGES. No person operating a bicycle upon a street, sidewalk, highway, park road or multi-use trail shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handlebars.

(Code of Iowa, Sec. 321.236 [10])

76.10 CONTROL WITH HANDS ON HANDLEBARS. The operator of a bicycle upon a street, sidewalk, highway, park road or multi-use trail shall keep the bicycle under control at all times and at all times during operation shall have one or both hands upon the handlebars and the feet engaged with the braking device if the braking device is designed to be actuated by the feet.

(Code of Iowa, Sec. 321.236 [10])

76.11 PLACE OF RIDING.

1. Any person operating a bicycle upon a roadway at a speed less than the normal speed of traffic moving in the same direction shall ride as close as practicable to the right-hand curb or edge of the roadway except under any of the following situations:

   A. When overtaking and passing another bicycle vehicle proceeding in the same direction.

   B. When preparing for a left turn at an intersection or into a private road or driveway.
C. When reasonably necessary to avoid conditions (including, but not limited to, fixed or moving objects, vehicles, bicycles, pedestrians, animals, surface hazards, or substandard width lanes) that make it unsafe to continue along the right-hand curb or edge. For purposes of this section, a "substandard width lane" is a lane that is too narrow for a bicycle and a vehicle to travel safely side by side within the lane.

D. A facility that would allow bicycle traffic on the left side of the roadway.

2. Any person operating a bicycle upon a roadway which carries traffic in one direction only and has two or more marked traffic lanes, may ride as near the left-hand curb or edge of such roadway as practicable.

3. When so riding upon any multi-use trail with other cyclists, there shall not be more than two abreast.

4. This section does not apply to the use of a bicycle in a parade or special event authorized by the City.

(Code of Iowa, Sec. 321.236 [10])

76.12 BICYCLE LANES.

1. Whenever a bicycle lane has been established on a roadway, any person operating a bicycle upon the roadway at a speed less than the normal speed of traffic moving in the same direction may ride within the bicycle lane, except that such person may move out of the lane under any of the following situations:

   A. When overtaking and passing another bicycle, vehicle, or pedestrian within the lane or about to enter the lane if such overtaking and passing cannot be done safely within the lane.

   B. When preparing for a left turn at an intersection or into a private road or driveway.

   C. When reasonably necessary to leave the bicycle lane to avoid debris or other hazardous conditions.

   D. When the bicycle lane does not include a marked shared lane.

2. No person operating a bicycle shall leave a bicycle lane until the movement can be made with reasonable safety and then only after giving an appropriate signal.

3. No person shall drive a motor vehicle in a bicycle lane established on a roadway except as follows:

   A. To park where parking is permitted.

   B. To enter or leave the roadway.

   C. To prepare for a turn within a distance of 200 feet from the intersection.

76.13 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 or driveway, yield the right-of-way to all
pedestrians approaching on the sidewalk or sidewalk area and upon entering the roadway shall yield the right-of-way to all vehicles approaching on the roadway.

(Code of Iowa, Sec. 321.236 [10])

76.14 OPERATION ON SIDEWALK. Bicycles may be operated upon the public sidewalks in a careful and prudent manner and except where signs are erected prohibiting riding on the sidewalk. Every person lawfully operating a bicycle upon a public sidewalk, shall yield the right-of-way when approaching a pedestrian and shall give an audible signal before overtaking and passing.

(Code of Iowa, Sec. 321.236 [10])

76.15 CLINGING TO OTHER VEHICLES. No person riding upon any bicycle on a street, sidewalk, highway, park road or multi-use trail shall attach the bicycle or himself or herself to any moving vehicle by tow rope, hand grip or otherwise, and shall not tow or be towed by another bicycle or vehicle.

(Code of Iowa, Sec. 321.236 [10])

76.16 FOLLOWING EMERGENCY VEHICLES. No person riding a bicycle shall follow closer than 500 feet of an emergency vehicle as defined by Iowa Code section 321.1 which has emergency lights and/or siren activated, and shall not stop, park, or leave a bicycle within 500 feet of an emergency vehicle stopped in response to an emergency.

(Code of Iowa, Sec. 321.236 [10])

76.17 PARKING. No person shall leave a bicycle lying on its side on any sidewalk, or shall park a bicycle on a sidewalk in any other position, so that there is not an adequate path for pedestrian traffic. Local authorities may, by ordinance or resolution, prohibit bicycle parking in designated areas of the public highway, provided that appropriate signs are erected.

76.18 RECKLESS OPERATION. No person shall operate a bicycle with willful or wanton disregard for the safety of persons or property.

(Ch. 76 – Ord. 856 – Aug. 12 Supp.)

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CHAPTER 80
ABANDONED VEHICLES

80.01 Definitions. For use in this chapter the following terms are defined: (Code of Iowa, Sec. 321.89[1])

1. “Abandoned vehicle” means any of the following:
   A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.
   B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.
   C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.
   D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
   E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
   F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. “Demolisher” means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. “Police authority” means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 Authority to Take Possession of Abandoned Vehicles. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and
addresses of the registered owners, all lienholders of record, and any other known claimant to
the vehicle or the personal property found in the vehicle.

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an
abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known
registered owner of the vehicle, all lienholders of record, and any other known claimant to
the vehicle or to personal property found in the vehicle, addressed to the parties’ last known
addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be
deemed given when mailed. The notice shall describe the year, make, model and vehicle
identification number of the vehicle, describe the personal property found in the vehicle, set
forth the location of the facility where the vehicle is being held, and inform the persons
receiving the notice of their right to reclaim the vehicle and personal property within ten (10)
days after the effective date of the notice upon payment of all towing, preservation, and
storage charges resulting from placing the vehicle in custody and upon payment of the costs of
the notice. The notice shall also state that the failure of the owner, lienholders or claimants
to exercise their right to reclaim the vehicle or personal property within the time provided shall
be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and
interest in the vehicle or personal property and that failure to reclaim the vehicle or personal
property is deemed consent to the sale of the vehicle at a public auction or disposal of the
vehicle to a demolisher and to disposal of the personal property by sale or destruction. The
notice shall state that any person claiming rightful possession of the vehicle or personal
property who disputes the planned disposition of the vehicle or property by the police
authority or private entity or of the assessment of fees and charges provided by this section
may ask for an evidentiary hearing before the police authority to contest those matters. If the
persons receiving the notice do not ask for a hearing or exercise their right to reclaim the
vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or
claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the
personal property. A court in any case in law or equity shall not recognize any right, title,
claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day
reclaiming period.

(Code of Iowa, Sec. 321.89[3a])

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with
reasonable certainty the identity and addresses of the last registered owner and all lienholders,
notice by one publication in one newspaper of general circulation in the area where the vehicle
was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The
published notice may contain multiple listings of abandoned vehicles and personal property
but shall be published within the same time requirements and contain the same information as
prescribed for mailed notice in Section 80.03.

(Code of Iowa, Sec. 321.89[3b])

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder or claimant shall pay all
towing and storage fees as established by the storage facility, whereupon the vehicle shall be
released.

(Code of Iowa, Sec. 321.89[3a])
80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

(Code of Iowa, Sec. 321.89[4])

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

(Code of Iowa, Sec. 321.89[4])

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])
CHAPTER 90

WATER SERVICE SYSTEM

90.01 Definitions. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. “Combined service account” means a customer service account for the provision of two or more utility services.
2. “Customer” means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
3. “Superintendent” means the Public Works Director of the City 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 owners of any houses, buildings or structures used for human occupancy, employment or use, situated within the City and abutting on any street, alley or right-of-way in which there is located a public water main are hereby required to connect such facilities to the City’s public water system in accordance with the provisions of these Water Service chapters within ninety (90) days after the date of official
notice to do so, provided that said public water main is located within three hundred (300) feet of the property line of such owner. However, the following exceptions apply:

1. If the structure is being used as a dwelling, and the property owner has, in good faith, within the preceding five years of installation of the water main, expended $2,500.00 or more in constructing or reconstructing a well or improving the water quality or delivery system to the dwelling for single-family use, that property owner may continue the use of the existing well but is required to connect to City water within five years after the installation of the City water main. If the structure is being used as a dwelling, and the property owner pays the water district connection fee as required by Chapter 93 of this Code of Ordinances, that property owner may continue the use of the existing well but is required to connect to City water within five years after the installation of the City water main. The property owner shall make application for this deferment to the Clerk upon such forms as required by the City within ninety (90) days of completion of the water main. The property owner, in order to continue this deferment from year to year, shall file with the Clerk, prior to July 1 of each year, a certificate or document from the State or other water testing service acceptable to the City that the well provides water safe and acceptable for human consumption.

2. Any person required to connect to the municipal water system pursuant to this section that has use for water other than for potable or human uses of drinking, cooking, bathing, laundry and other similar uses within a dwelling or other structure may secure this water from sources other than the municipal system. All persons that utilize water from any source other than the municipal water system shall report this use to the City and furnish the City any additional information requested concerning the source and use of this water. Any person using water as permitted in this subsection gives permission to the City to enter upon the property and the structures located thereon, at all reasonable hours, in order to conduct inspections to ensure that there are not cross-connections or other improper uses of water obtained from sources other than the municipal system.

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 APPLICATION FOR SERVICE. Before any person makes a connection with the public water system, an application for service must be made to the City. The application for service shall include the address 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. The property owner shall complete installation and connection of the service line to the public water system within sixty (60) days after the application for service, except that when such time period is inequitable or unfair due to conditions beyond the control of the property owner, an extension of time within which to complete the work may be granted. In addition to the application for service, a plumbing permit must also be obtained.
90.06 CONNECTION FEES. Connection fees for customers connecting to the system are as follows:

(Code of Iowa, Sec. 384.84)

1. For each service from the main:

<table>
<thead>
<tr>
<th>Size of Service</th>
<th>Connection Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 inch</td>
<td>$60.00 plus cost of meter</td>
</tr>
<tr>
<td>1½-inch</td>
<td>$85.00 plus cost of meter</td>
</tr>
<tr>
<td>2-inch</td>
<td>$175.00 plus cost of meter</td>
</tr>
<tr>
<td>4-inch</td>
<td>$265.00 plus cost of meter</td>
</tr>
<tr>
<td>6-inch</td>
<td>$355.00 plus cost of meter</td>
</tr>
<tr>
<td>8-inch</td>
<td>$445.00 plus cost of meter</td>
</tr>
<tr>
<td>10-inch</td>
<td>$535.00 plus cost of meter</td>
</tr>
</tbody>
</table>

2. Water connection fees, excluding fire protection systems, are as follows:

A. One-inch (minimum) residential service is $60.00 plus cost of meter and remote where deemed necessary.

B. One-inch (minimum/unit) duplex service is $120.00 ($60.00 each unit) plus cost of meters and remote where deemed necessary. Note: Two services require separate shut-offs in the City right-of-way, and separate taps to the main.

C. One-inch (minimum) commercial or industrial service is $60.00 plus cost of meters and remotes where deemed necessary.

D. Two-inch (minimum) triplexes and larger residential structures are $262.50 plus the cost of the meters and remotes where deemed necessary.

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of the water service pipe and its connection to the water system shall conform to the requirements of the City’s Plumbing Code, the laws of the State and other applicable rules and regulations of the City.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a licensed plumber, and a plumber’s license may be suspended or revoked for violation of any of the provisions of these Water Service chapters.

90.09 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with the provisions of Chapter 141 (Rights-of-Way Work) of this Code of Ordinances.

90.10 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other. The following exceptions apply:

A. A commercial condominium structure that is owned partly by each resident in the building may be served by one service connection line from the
water main and by one water meter. Any such commercial condominium structure must have a commercial condominium association with articles of agreement and bylaws which are filed with and approved by the City. Any articles of agreement and bylaws must specify how the water bill from the City is to be paid by the association. Certification for such water service on behalf of each owner of space in the commercial condominium structure and the rights of each such owner of space in the structure to water shall be considered to be subordinate to the duties and obligations of the association to apply for each service and pay for monthly bills. The City will only send one monthly bill to the condominium association, not to each individual property owner in the condominium. The condominium association will be responsible for notifying the City when any individual property owner in the condominium structure buys or sells property. Each individual building in a commercial condominium association must have a separate water line serviced from the water main.

B. Up to two separate residential properties may be connected to a private water service line if the private water service line is connected directly to a City water main. No private water service line that has two residential properties connected to it may be less than 1½ inches in size. Each of the residential properties connected to the private water service line must have a separate water meter and stop box. If a municipal water main is within 300 feet of a residential property, any residential property must be individually connected to the City water main and not to a private water service.

2. Taps. No main shall receive less than a 1-inch tap. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.

(Code of Iowa, Sec. 364.12[3a & h])
90.14 CURB VALVE. There shall be installed within the public right-of-way, three (3) feet from the property line, a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground.

90.15 INTERIOR VALVE. There shall be installed a shut-off valve on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

90.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. 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.
[The next page is 433]
CHAPTER 91
WATER METERS

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the City. All meters shall be equipped with a remote reading device.

91.03 FIRE SPRINKLER SYSTEMS – EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER COSTS. The full cost of the water meter shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

91.07 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

91.08 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 METER INSTALLATION FEE. The property owner shall pay an installation fee of twenty dollars ($20.00) for each new installation of a water meter and remote reader. Such meter is to remain the property of the City.
91.10 METER TESTING. The Superintendent shall make a test of the accuracy of any water meter when requested in writing. A twenty-five dollar ($25.00) fee to cover costs associated with the test is required prior to the test. If the test shows the meter to be defective, resulting in an overcharge, the $25.00 fee shall be refunded.

91.11 IRRIGATION METERS. Customers may have an irrigation meter installed to measure water that is not disposed of through the public sanitary sewer system. The water measured by an irrigation meter may include water for swimming pools, watering yards, watering gardens or other similar uses. Prior to installation of such meter the customer must obtain an irrigation system permit. A written application for the permit shall be filed with the City and shall be accompanied by a permit fee of forty dollars ($40.00). The cost of the irrigation meter and its installation shall be at the expense of the customer. No sewer charge will be assessed to water usage through the irrigation meter.
CHAPTER 92
WATER RATES

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

1. Water Service Availability fee per month:

<table>
<thead>
<tr>
<th>Date</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017</td>
<td>$8.91</td>
</tr>
<tr>
<td>July 1, 2018</td>
<td>$9.58</td>
</tr>
<tr>
<td>July 1, 2019</td>
<td>$10.06</td>
</tr>
<tr>
<td>July 1, 2020</td>
<td>$10.56</td>
</tr>
</tbody>
</table>

2. Regular Water Usage. Usage per 1,000 gallons per month at:

<table>
<thead>
<tr>
<th>Date</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017</td>
<td>$6.62</td>
</tr>
<tr>
<td>July 1, 2018</td>
<td>$7.12</td>
</tr>
<tr>
<td>July 1, 2019</td>
<td>$7.47</td>
</tr>
<tr>
<td>July 1, 2020</td>
<td>$7.85</td>
</tr>
</tbody>
</table>

3. Irrigation Water Service Availability Fee per month:

<table>
<thead>
<tr>
<th>Date</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017</td>
<td>$5.25</td>
</tr>
<tr>
<td>July 1, 2018</td>
<td>$5.64</td>
</tr>
<tr>
<td>July 1, 2019</td>
<td>$5.93</td>
</tr>
<tr>
<td>July 1, 2020</td>
<td>$6.22</td>
</tr>
</tbody>
</table>
4. Irrigation Water Usage. Water used for irrigation purposes shall be furnished at the following rate per 1,000 gallons per month:

<table>
<thead>
<tr>
<th>Date</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017</td>
<td>$8.29</td>
</tr>
<tr>
<td>July 1, 2018</td>
<td>$8.91</td>
</tr>
<tr>
<td>July 1, 2019</td>
<td>$9.36</td>
</tr>
<tr>
<td>July 1, 2020</td>
<td>$9.83</td>
</tr>
</tbody>
</table>

(Ord. 976 – Nov. 17 Supp.)

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates one hundred fifty percent (150%) of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4 & 384.84)

92.04 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.

2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth day of the month.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of $1.50 shall be added to each delinquent residential bill and a one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent commercial or industrial bill.

4. If the bill is not paid by the 17th day of the month, the City shall send a reminder notice.

5. If the bill is not paid within seven days of the due date (approximately the 23rd day of the month) the City shall send the customer a twelve day shut off notice by ordinary mail.

6. If the bill remains unpaid eleven days later (approximately the 1st of the month) a disconnect notice is delivered to the premises stating that if the bill is not paid immediately, the water will be shut off in 48 hours and a $35.00 administrative fee shall be charged to the customer.

7. If the bill remains unpaid two days later (approximately the 3rd of the month) the City shall deliver another notice and shut the water service off. A $35.00 disconnection charge is charged to the customer.

(Ord. 942 – Nov. 16 Supp.)

In accordance with Section 384.84 of the Code of Iowa, following written notice of delinquency and an opportunity for a hearing, any or all of the utility services may be discontinued if the combined service account becomes delinquent.
92.05 DISCONTINUANCE HEARING.
(Code of Iowa, Sec. 384.84)

1. Notice. Prior to the discontinuance of water service, the Clerk shall notify each delinquent customer, by ordinary mail, of the nature of the delinquency and afford the customer the opportunity for a hearing.

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. If the City Administrator finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A charge of $35.00 will be added to restore the service at the time the bill and fees are paid. Restoration of service will occur during normal working hours. Under special circumstances, the Public Works Director may authorize the restoration of service after hours (4:00 p.m. to 7:30 a.m.) and a fee of $100.00 will be charged. The water utility employee that restores service is not authorized to accept payment after hours. Payments must be made at City Hall in full and including the $100.00 after hour fee by 9:00 a.m. the following day or service will be disconnected immediately and not restored until all monies have been received, including an additional $35.00 for the second shut off.

(Ord. 942 – Nov. 16 Supp.)

92.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and may be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord’s written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

(Code of Iowa, Sec. 384.84)

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice
shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS.

1. There shall be required from every customer a deposit in the amount of $75.00 intended to guarantee the payment of bills for service.

(Ord. 942 – Nov. 16 Supp.)

2. For any commercial, industrial or multifamily property where the previous experience of the building use or billing experience shows a water bill to be substantially higher than the deposit shown for that size of meter, the deposit shall be adjusted to approximate one billing period.

3. The deposit requirement shall be waived if any one of the following credit criteria is met by the applicant for service:
   A. The applicant has previously established a satisfactory credit history with the utility.
   B. The applicant’s twelve most recent bills from the utility were timely paid (including one automatic forgiveness of late payment).
   C. Reasonable proof of an equivalent recent payment history for similar service from another utility has been submitted with the application for service.

4. A deposit shall be refunded after twelve consecutive months of prompt payment (which may be eleven timely payments and one automatic forgiveness of late payment).

5. Upon termination of service, the deposit, less any unpaid utility bill, shall be reimbursed to the customer or other person who made the deposit.

92.10 TEMPORARY VACANCY. A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a $35.00 fee collected for shutting the water off at the curb valve and a $35.00 fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no service availability charge. The City will not drain pipes or pull meters for temporary vacancies.

(Ord. 942 – Nov. 16 Supp.)

92.11 CONSTRUCTION USE CHARGES.


2. Deposits for fire hydrant meters are as follows:
   1" Meter ..............................................$1,000.00
   2" Meter ..............................................$2,000.00

3. Inspection fee during construction is $35.00

(Ord. 942 – Nov. 16 Supp.)

[The next page is 441]
CHAPTER 93

BENEFITED WATER DISTRICTS

93.01 Purpose. The City has determined the necessity of establishing a policy and a procedure to be utilized to recover the cost of design and construction of major water main facilities in those instances in which a significant number of the properties to be benefited by such facilities are not sufficiently developed to permit the recovery of those costs through the special assessment process as provided in Chapter 384, Division IV of the Code of Iowa. The City hereby declares its intent to utilize connection fees, as herein provided, to recover the costs for design and construction of such major water main facilities from property owners who connect to such facilities subsequent to their construction.

93.02 Intent. It is the intent of this chapter to set forth the method of recovery of proportional cost shares from those property owners who connect their properties to major water main facilities subsequent to their construction, so that in the event that all property, other than street and road right-of-way, which lies within the benefited district is connected to the major water main facilities during their expected useful life, then those properties shall bear, in the aggregate, up to 100 percent of the cost for design and construction of such facilities, including legal, administrative, and interest expenses associated therewith.

93.03 Procedure.

1. In the event the Council determines the necessity for construction of a major water main facility, and determines that the utilization of a connection fee is the most equitable manner in which to recover the City’s costs associated therewith, the Council shall cause a “Notice of Public Hearing on the Proposed Adoption of an Ordinance to Establish a Benefited District and a Connection Fee Schedule” to be published in a newspaper of general circulation within the City as hereinafter provided. In addition to indicating the date, time, and place of the public hearing, the notice shall:

   A. Indicate the nature and extent of the major water main facility or facilities under consideration for construction, as well as the estimated cost or costs for the design and construction of same;

   B. Identify by general description the proposed benefited district to be served by the major water main facility or facilities; and

   C. Set forth the proposed schedule of connection fees to be paid by property owners within the benefited district who connect to said facilities, expressed in dollars per acre of land area served or such other method as the City shall determine to be equitable for the benefited district.

The notice shall also state that the proposed connection fee ordinance is on file, along with a plat of the area to be served, and both are available for public inspection in the office of the Clerk. The notice shall be published not more than 45 days and not less
than 20 days prior to the scheduled date of the public hearing, and shall be mailed to each property owner within the benefited district as shown by the records of the County Auditor.

2. At the public hearing, the owners of property within the proposed benefited district shall be heard and may offer comments or objections as to:
   A. The necessity for the project;
   B. The calculation of the area benefited by the proposed major water main facilities;
   C. The estimated cost of the proposed facilities; and
   D. The proposed connection fee.

3. Upon concluding the hearing, the Council shall rule upon the objections presented during the hearing and may consider the adoption of the proposed connection fee ordinance. Upon consideration of the proposed connection fee ordinance, the Council may:
   A. Adopt the ordinance as proposed;
   B. Delete elements or portions of the proposed major water main facilities from the proposed project and the properties served thereby from the benefited district proposed; or
   C. Amend the ordinance to revise the connection fee.

4. The connection fee ordinance may provide, at the Council's discretion, that single family residences within the benefited district, in existence or under construction upon the effective date of the ordinance, and located within the corporate limits of the City, are eligible for connection to the major water main facility. In that event, the ordinance shall include the following provisions:
   A. The owners of residences on parcels of less than one acre in size located within the City may connect such residences to the major water main facility upon approval of their application for connection, payment of the connection fee for the parcel, and construction, at the owner's expense, of appropriate connection structures, as determined necessary by the City.
   B. The owners of residences on parcels in excess of one acre in size located within the City may connect such residences to the major water main facility upon approval of their application for connection, division of said parcel into a residence parcel and a remainder parcel, payment of the connection fee for the residence parcel, and construction, at the owner's expense, of appropriate connection structures, as determined necessary by the City. The connection fee for the remainder parcel shall be payable at such time as the remainder parcel shall be connected to the major water main facility. For purposes of this chapter, a parcel may be divided once. For purposes of this section, division of the property into a residence parcel and a remainder parcel may be accomplished by submitting a drawing showing a graphical depiction of the two parcels including dimensions accurate to within a distance of one-foot, a legal description of the entire parcel and a legal description of the residence parcel with such accuracy as to allow the City to determine a reasonable description of the remainder parcel. For purposes of
this section, the division of property does not require a subdivision of the property or a plat of survey.

C. The connection fee ordinance may also provide, at the Council’s discretion, that water service can be provided to recreational and park facilities and to commercial and industrial parcels and facilities, in the same manner and under the same procedures set forth in this section for single family residences within the benefited district.

All other property located within the corporate limits of the City and within a benefited district shall be eligible for connection to the major water main facility upon approval of an application for connection by the owner thereof, as hereinafter provided, and payment of the connection fee for such property, provided such property has been appropriately subdivided for development, and, where applicable, all water main improvements necessary to serve said property have been constructed, at the owner’s expense, and accepted by the City.

5. After adoption, publication and recording by the Clerk of a connection fee ordinance for a benefited district, all owners of those properties within the benefited district whose properties are eligible for connection, and who propose to connect such properties directly or indirectly to the major water main facility, shall make application to the City for such connection. The submittal of construction plans to the City for water main improvements on property being subdivided for development shall constitute an application to the City for purposes of this chapter. The water connection fee shall be due and payable at the time application is made to the City for connection to the major water main facility. No connection shall be made to a major water main facility until such application has been approved and until the required connection fee has been paid. The water connection fee shall be paid before the City will approve the final plat of property subject to the connection fee.

6. The water connection fee shall be in an amount equal to the maximum acre area of contiguous property, or fraction thereof, within the benefited district under common ownership which can be lawfully served through such proposed connection, multiplied by the per-acre connection fee or such other fee basis as determined for the benefited district established in the connection fee ordinance for that benefited district. The connection fee ordinance may provide for a graduated connection fee, with annual interest adjustments, such that property owners who connect in later years pay interest on the connection fee for their property. The rate of interest applicable to the connection fee established in each benefited district shall not exceed the rate of interest applicable to special assessments pursuant to Chapter 74A and Section 384.60(3) of the Iowa Code in effect on the date that the connection fee was established for that district by enactment of a connection fee ordinance.

7. The water connection fee required by this chapter shall be due and payable to the City and is in addition to, and not in lieu of, any other fees for connection required under the plumbing code or other provisions of this Code of Ordinances.

8. In the event any property owner connects his or her property within a benefited district to a major water main facility without having made application therefor or without having received approval thereof or without having paid the required connection fee established by a connection fee ordinance, the City shall be entitled to disconnect such private water connection until such time as the property owner has made and received approval of his or her application, and/or has paid the required connection fee.
93.04 NORTHWEST EXPANSION AREA BENEFITED WATER DISTRICT.

1. Special Water District with Access Fee Established. There is established a special water service district within the following described property:

Commencing at the northwest corner of Section 2, Township 79 North, Range 25 West of the 5th Principal Meridian; thence east along the north line of said Section 2 to the northeast corner of the Northwest fractional Quarter of the Northwest fractional Quarter (NW fr. ¼ NW fr. ¼); thence south along the east line of the Northwest fractional Quarter of the Northwest fractional Quarter (NW fr. ¼ NW fr. ¼) of said Section 2 to the southeast corner of the Northwest fractional Quarter of the Northwest fractional Quarter (NW fr. ¼ NW fr. ¼) of said Section 2; thence south along the east line of the Southwest Quarter of the Northwest fractional Quarter (SW ¼ NW fr. ¼) of said Section 2, a distance of 500 feet; thence west to a point on the west line of said Section 2, said point being a distance of 500 feet south of the northwest corner of the Southwest Quarter of the Southwest fractional Quarter (SW ¼ NW fr. ¼) of said Section 2; thence west to a point on the west line of the South Half of the Northeast fractional Quarter (S ½ NE fr. ¼) of said Section 2, said point being a distance of 500 feet south of the northwest corner of the South Half of the Northeast fractional Quarter (S ½ NE fr. ¼) of said Section 2; thence north along the west line of the South Half of the Northeast fractional Quarter (S ½ NE fr. ¼) of said Section 2 to the northwest corner of the South Half of the Northeast fractional Quarter (S ½ fr. NW ¼) of said Section 3; thence west along the south line of the Northeast fractional Quarter of the Northwest fractional Quarter (NE fr. ¼ NW fr. ¼) of said Section 3 to the southwest corner of the Northeast fractional Quarter of the Northwest fractional Quarter (NE fr. ¼ NW fr. ¼) of said Section 3; thence continuing west along the south line of the Northwest fractional Quarter of the Northwest fractional Quarter (NW fr. ¼ NW fr. ¼) of said Section 3 to the southwest corner of the Northwest fractional Quarter of the Northwest fractional Quarter (NW fr. ¼ NW fr. ¼) of said Section 3; thence north along the west line of the Northwest fractional Quarter (NW fr. ¼) of said Section 3 to the northwest corner of said Section 3; thence west along the south line of Section 33; Township 80 North, Range 25 West to the southwest corner of the Southeast Quarter of the Southeast Quarter (SE ¼ SE ¼) of said Section 33; thence north along the west line of the Southeast Quarter of the Southeast Quarter (SE ¼ SE ¼) of said Section 33 to the northwest corner of the Southeast Quarter of the Southeast Quarter (SE ¼ SE ¼) of said Section 33; thence north along the west line of the Northeast Quarter of the Southeast Quarter (NE ¼ SE ¼) of said Section 33 to the northwest corner of the Northeast Quarter of the Southeast Quarter (NE ¼ SE ¼) of said Section 33; thence north along the west line of the Southeast Quarter of the Northeast Quarter (SE ¼
Within this district the pro ration of the cost to extend water service is $1,750.00 per acre and any part thereof. Any property owner that wishes to receive water service may elect to pay a connection fee of $1,750.00 per acre of land and any part thereof or a surcharge of $45.00 per month, if this election is made within ninety (90) days of the effective date of the ordinance codified in this chapter for 96 consecutive months as provided in Section 384.84(6)(a)(1), Code of Iowa. After the ordinance codified in this chapter has been in effect for 90 days only the connection fee of $1,750.00 per acre and any part thereof shall be applicable. The minimum charge shall be for one acre. Connecting properties shall also be charged the usual fees for connection, water meters, monthly water usage, and any other fees established by ordinance.

2. Connection of Water Service. Any parcel of ground or lot of record may connect to the water service upon payment of the connection fee and other required fees subject to subsection 3 of this section. If the parcel or lot of record is greater than that required for a residence under the existing applicable zoning or building regulation, the connection fee shall be calculated on the minimum area requirements of the applicable zoning or building regulation subject to the one-acre minimum charge.

3. Availability of Service Outside City Limits. Water service shall not be made available to properties lying outside the City limits unless the owners of such property have executed secured approval of the Council and filed for record with the County Recorder an irrevocable petition for voluntary annexation in such form as may be
required by the City. Such form may allow for stipulation that the City will not unilaterally file the petition prior to July 1, 2005.

93.05 NW 100th STREET BENEFITED WATER DISTRICT.

1. Special Water Main District Established. The NW 100th Street Benefitted Water District is hereby established consisting of a tract of land located in Section 3, 49 and 10, Township 79 North, Range 25 West of the 5th Principal Meridian, Polk County, Iowa, more particularly described as follows:

Commencing at the East Quarter (E ¼) corner of Section 9, Township 79 North, Range 25 West of the 5th Principal Meridian; thence west along the south line of the Northeast Quarter (NE ¼) of said Section 9 to the center of said Section 9; thence north along the west line of the Northeast Quarter (NE ¼) of said Section 9 to the North Quarter (N ¼) corner of said Section 9; thence north along the west line of the Southeast Quarter (SE ¼) of Section 4, Township 79 North, Range 25 West to the center of said Section 4; thence north along the west line of the Northeast Quarter (NE ¼) of said Section 4 to the northwest corner of the South Half of the Northeast Quarter (S ½ NE ¼) of said Section 4; thence east along the north line of the South Half of the Northeast Quarter (S ½ NE ¼) of said Section 4 to the northeast corner of the South Half of the Northeast Quarter (S ½ NE ¼) of said Section 4; thence east along the north line of the Northwest Quarter (S ½ NW ¼) of Section 3, Township 79 North, Range 25 West of the 5th Principal Meridian to the northeast corner of the South Half of the Northwest Quarter (S ½ NW ¼) of the said Section 3, said point also being the northeast corner of Lot 1, Betz Subdivision, a plat in and forming a part of the City of Johnston, Polk County, Iowa; thence south along the east line of the Northwest Quarter (NW ¼) of said Section to the center of said Section 3; thence west along the south line of the Northwest Quarter (NW ¼) of said Section 3, said line also being the south line of Lot 1 of Betz Subdivision to the northeast corner of Lot 2, Betz Subdivision; thence south along the east line of Lot 2, Betz Subdivision to the southeast corner of Lot 2, Betz Subdivision; thence west along the south line of Lot 2, Betz Subdivision to the east right-of-way line of NW 100th Street; thence south along the east right-of-way line of NW 100th Street to the northwest corner of Lot 184, Newport Ridge Plat 1 to the southeast corner of Lot 184, Newport Ridge Plat 1; thence south to the centerline of the right-of-way of NW 62nd Avenue, said centerline being located on the north line of the Northwest Quarter (NW ¼) of Section 10, Township 79 North, Range 25 West; thence east along the north line of the Northwest Quarter (NW ¼) of said Section 10 to the North Quarter (N ¼) corner of said Section 10 to the center of said Section 10; thence west along the south line of the Northwest Quarter (NW ¼) of said Section 10 to the West Quarter (W ¼) corner of said Section 10; said point being the point of beginning.

2. District Connection Fees. Connection fees are hereby established and shall be imposed upon owners of properties within the District at the time of application to connect their properties to said water main facilities as follows:
A. From the effective date of the ordinance codified herein until June 30, 2002, a connection fee of $405.00 per acre of property served by the water main facility shall be imposed. Thereafter, the per-acre connection fee shall be adjusted annually as of July 1 of each year according to the following schedule:

<table>
<thead>
<tr>
<th>Effective Date</th>
<th>Connection Fee ($/acre)</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2003</td>
<td>$ 425.00</td>
</tr>
<tr>
<td>July 1, 2004</td>
<td>$ 445.00</td>
</tr>
<tr>
<td>July 1, 2005</td>
<td>$ 465.00</td>
</tr>
<tr>
<td>July 1, 2006</td>
<td>$ 485.00</td>
</tr>
<tr>
<td>July 1, 2007</td>
<td>$ 505.00</td>
</tr>
<tr>
<td>July 1, 2008</td>
<td>$ 525.00</td>
</tr>
<tr>
<td>July 1, 2009</td>
<td>$ 545.00</td>
</tr>
<tr>
<td>July 1, 2010</td>
<td>$ 565.00</td>
</tr>
<tr>
<td>July 1, 2011</td>
<td>$ 585.00</td>
</tr>
<tr>
<td>July 1, 2012</td>
<td>$ 605.00</td>
</tr>
<tr>
<td>July 1, 2013, and thereafter</td>
<td>$ 625.00</td>
</tr>
</tbody>
</table>

B. The above established connection fees shall also apply to any properties outside the NW 100th Street Water Main District which use any of the water main facilities constructed for the NW 100th Street Water Main District. The appropriate fee shall be imposed at the time of determination that a benefit is derived by the property.

C. The above established connection fees shall not apply to any properties within the NW 100th Street Water Main District which do not use any water main facilities constructed for the NW 100th Street Water Main District.

D. The determination that a property is to be connected to the water main facilities shall occur and the appropriate connection fee shall be paid prior to the time of the release of a final plat for recordation, the issuance of a building permit, or the issuance of a plumbing permit, whichever occurs first. Any single-family residence existing or under construction upon the effective date of the ordinance codified herein located upon a parcel in excess of one acre may apply for connection upon division of said parcel into a single-family residence parcel and an outlot in the payment of a single acre connection fee. Any development of said parcel shall necessitate a revised application for connection and payment of the appropriate connection fee. For purposes of this section, subdivision of the property into a single-family residence parcel and an outlot shall only require a reasonably accurate graphical division of the property and shall not be construed to require a legal division of property.

3. Availability of Service Outside City Limits. Water service shall not be available to property lying outside of the City limits unless the owners of such properties have executed and secured approval of the Council and filed for record with the County Recorder an irrevocable petition for involuntary annexation in such form as may be required by the City. Such form may allow for stipulation that the City will not unilaterally file the petition prior to July 1, 2005.
93.06 NW 86TH STREET BENEFITED WATER DISTRICT.

1. Water System Improvements Benefited District Established. The NW 86th Street Benefited Water District is hereby established within the following described property:

   The South One-Half of the Northeast One-Quarter of Section 10, Township 79 North, Range 25 West of the 5th Principal Meridian included with the City of Johnston, Iowa, less roads.

2. A connection fee of $590.00 per acre of property is hereby established and imposed upon the owners of property within the NW 86th Street Benefited Water District who make application to connect their property to the water system. The connection fee shall be administered and applied as provided.

3. The following provisions for connection of single family residences within the benefited district in existence or under construction upon the effective date of the ordinance codified in this section (Ord. No. 452) and the following procedures for future division of property within the benefited district shall be applicable:

   A. The owners of residences on parcels of less than one acre in size located within the City may connect such residences to the water system facility upon approval of their application for connection, payment of the connection fee for the parcel, and construction of appropriate connection structures, as determined necessary by the City.

   B. The owners of residences on parcels in excess of approximately one acre in size located within the City may connect such residences to the major water system facility upon approval of their application for connection, payment of the connection fee for the residence parcel, and construction of appropriate connection structures, as determined necessary by the City. Prior to connection of the residence parcel the owners shall designate in writing to the City the division of property into a residence parcel of approximately one acre and the balance of the property.

   C. All other property, and any balance remaining from a division as provided above, located within the corporate limits of the City and within a benefited district shall be eligible for connection to the water system facility upon approval of an application for connection by the owner thereof, as herein provided, and payment of the connection fee for such property, provided such property has been appropriately subdivided for development, and provided that all water system improvements necessary to serve the property have been constructed and approved by the City.

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

95.02 Definitions. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20º) C, expressed in milligrams per liter or parts per million.

2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning three (3) feet outside the inner face of the building wall.

3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

4. “Combined sewer” means a sewer receiving both surface run-off and sewage.

5. “Customer” means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.

6. “Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.

7. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. “Inspector” means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. “On-site wastewater treatment and disposal system” means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal.
of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13. “Sanitary sewage” means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.

14. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

15. “Sewage” means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

16. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.

17. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.

18. “Sewer” means a pipe or conduit for carrying sewage.

19. “Sewer service charges” means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

20. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 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 Public Works Director 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 one hundred eighty(180) days after date of official notice from the City to do so provided that said public sewer is located within three hundred (300) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

   *(IAC, 567-69.1[3])*  

**95.06 SERVICE OUTSIDE THE CITY.** The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

   *(Code of Iowa, Sec. 364.4[2 & 3])*
95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.
CHAPTER 96
BUILDING SEWERS AND CONNECTIONS

96.01 APPLICATION FOR SERVICE. No person shall make any connection to the public sewer system without first making an application for service to the City. The application for service 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 property owner shall complete construction and connection of the building sewer to the public sewer within sixty (60) days after the application for service, 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. In addition to the application for service, a plumbing permit must also be obtained.

96.02 CONNECTION CHARGE. The person who makes the application shall pay a connection charge in the amount of three hundred dollars ($300.00) per dwelling unit, business establishment or equivalent at the time of connection to the public sanitary sewer system to reimburse the City for the costs borne by the City in making sanitary sewer service available to the property served.

(Ord. 983 – Nov. 17 Supp.)

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a licensed plumber, and a plumber’s license may be suspended or revoked for violation of any of the provisions of these Sanitary Sewer chapters.

96.04 CONNECTION REQUIREMENTS. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the City’s Plumbing Code, the laws of the State and other applicable rules and regulations of the City.

96.05 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the “Y” branch, if such branch is available at a suitable location. If no properly located “Y” branch is available, a saddle “Y” 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 or attached with a gasket and 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.

96.06 INSPECTION REQUIRED. No building sewer shall be covered, concealed or put into use until it has been tested, inspected and accepted as prescribed in the Plumbing Code.
96.07 PROPERTY OWNER’S RESPONSIBILITY. Property owners are responsible for any repairs to or replacement of building sewer lines from the main to any structure or structures on their property.

96.08 ABATEMENT OF VIOLATIONS. Building sewers, whether located upon the private property of any owner or in the public right-of-way, which are constructed or maintained in violation of any of the requirements of this chapter shall be deemed a nuisance and the same shall be abated by the City in the manner provided for the abatement of nuisances.

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, 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-day biochemical oxygen demand greater than 300 parts per million by weight, or (b) containing more than 300 parts per million by weight of suspended solids, or (c) having an average daily flow greater than two 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 300 parts per million by weight, or (b) reduce the suspended solids to 300 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 degrees (150º) F (65º C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 milligrams per liter or 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 32º F and 150º F (0º to 65º 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.
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 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 24-hour composites of all outfalls whereas pH’s are determined from periodic grab samples).
CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 When Required
When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 Compliance with Regulations.
The type, capacity, location and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 Permit Required.
No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 Discharge Restrictions.
It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 Maintenance of System.
The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 Systems Abandoned.
At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

(Code of Iowa, Sec. 364.12[3f])
98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.
CHAPTER 99
SEWER USER CHARGE

99.01 Purpose. It is determined and declared to be necessary and conducive to the protection of the public health, safety, welfare and convenience of the City to collect charges from all users who contribute wastewater to the City’s treatment works. The proceeds of such charges so derived will be used for the purpose of operating, maintaining and retiring the debt for such public wastewater treatment works.

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

1. “Normal domestic wastewater” means wastewater that has a BOD₅ concentration of not more than 300 mg/l and a suspended solids concentration of not more than 300 mg/l.

2. “Operation and maintenance” means all expenditures during the useful life of the wastewater treatment works for materials, labor, utilities and other items which are necessary for the management and maintenance of the sewer works to achieve the capacity and performance for which such works were designed and constructed.

3. “Replacement” means expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the useful life of the treatment works to maintain the capacity and performance for which such works were designed and constructed. The term “operation and maintenance” includes replacement.

4. “Treatment works” means any devices and systems used for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes discharged to the municipal sewerage system. These include intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and their appurtenances; extensions, improvement, remodeling, additions and alterations thereof; elements essential to provide a reliable system such as flow equalization and auxiliary power; and any works, including site acquisition of the land, that will be an integral part of the treatment process or used for ultimate disposal of residues resulting from such treatment (including land used for land application of sludges); or any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste discharged to the municipal sanitary sewer system.

5. “Useful life” means the estimated period during which the wastewater treatment works will be operated.
6. “User” means each individual unit, even if it is located in a multiple unit being used for dwelling purposes, industrial purposes, commercial purposes, other purposes or a combination thereof and as may be determined by the City.

7. “User charge” means that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.

99.03 USE OF FUNDS. The user charge system shall generate adequate annual revenues to pay costs of annual operation and maintenance including replacement and costs associated with debt retirement of bonded capital associated with financing the treatment works which the City may by ordinance designate to be paid by the user charge system. That portion of the total user charge which is designated for operation and maintenance including replacement of the treatment works shall be established by this chapter.

99.04 ACCOUNTS DESIGNATED. That portion of the total user charge collected which is designated for operation and maintenance including replacement purposes as established in Section 99.06 shall be deposited in a separate non-lapsing fund known as the Operation, Maintenance and Replacement Fund and will be kept in two primary accounts as follows:

1. Operation and Maintenance Account. An account designated for the specific purpose of defraying operation and maintenance costs (excluding replacement) of the treatment works.

2. Replacement Account. An account designated for the specific purpose of ensuring replacement needs over the useful life of the treatment works. Deposits in the Replacement Account shall be made at least annually from the operation, maintenance and replacement revenue in the amount established by the City.

99.05 YEAR-END BALANCES. Fiscal year-end balances in the Operation and Maintenance Account and the Replacement Account shall be carried over to the same accounts in the subsequent fiscal year, and shall be used for no other purposes than those designated for these accounts. Moneys which have been transferred from other sources to meet temporary shortages in the Operation, Maintenance and Replacement Fund shall be returned to their respective accounts upon appropriate adjustment of the user charge rates for operation, maintenance and replacement. The user charge rate shall be adjusted such that the transferred moneys will be returned to their respective accounts within the fiscal year following the fiscal year in which the moneys were borrowed.

99.06 CHARGES BASED ON USAGE.

1. Each user shall pay for the services provided by the City based on said user’s use of the treatment works as determined by water meters acceptable to the City. All monthly user charges shall be based on actual water used during the month. If a customer has a consumptive use of water, or in some other manner uses water which is not returned to the wastewater collection system, the user charge for that customer may be based on a wastewater meter or separate water meter installed and maintained at the customer’s expense, and in a manner acceptable to the City.


(Ord. 941 – Nov. 16 Supp.)
CHAPTER 99

99.07 USER CHARGE.

1. Service Availability Charge. Each separate residential unit and each separately billed commercial, industrial or educational premises shall be charged a service availability charge in the amount of:

<table>
<thead>
<tr>
<th>Date</th>
<th>Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017</td>
<td>$5.72 per month</td>
</tr>
<tr>
<td>July 1, 2018</td>
<td>$5.86 per month</td>
</tr>
<tr>
<td>July 1, 2019</td>
<td>$6.01 per month</td>
</tr>
<tr>
<td>July 1, 2020</td>
<td>$6.16 per month</td>
</tr>
</tbody>
</table>

Commercial condominiums serviced by a single connection shall be billed for each owner of space in the structure.

2. Sewer User Charge. In addition to the service availability charge, each user shall pay a user charge for each 1,000 gallons of water used per month of:

<table>
<thead>
<tr>
<th>Date</th>
<th>Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017</td>
<td>$5.28 per month</td>
</tr>
<tr>
<td>July 1, 2018</td>
<td>$5.41 per month</td>
</tr>
<tr>
<td>July 1, 2019</td>
<td>$5.55 per month</td>
</tr>
<tr>
<td>July 1, 2020</td>
<td>$5.69 per month</td>
</tr>
</tbody>
</table>

3. Sewer User Charge for sewer only customers will be based on a volume of 4,633 gallons of water per month.

   A. Sewer only customers within the City of Johnston:

<table>
<thead>
<tr>
<th>Date</th>
<th>Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2017</td>
<td>$30.18 per month</td>
</tr>
<tr>
<td>July 1, 2018</td>
<td>$30.93 per month</td>
</tr>
<tr>
<td>July 1, 2019</td>
<td>$31.71 per month</td>
</tr>
<tr>
<td>July 1, 2020</td>
<td>$32.50 per month</td>
</tr>
</tbody>
</table>

   B. Sewer only customers located outside the corporate limits of the City which the City has agreed to serve at rates one hundred fifty percent (150%) of the rates provided in 99.07(3)(A).

(Ord. 977 – Nov. 17 Supp.)

99.08 SURCHARGE. For those users who contribute wastewater, the strength of which is greater than normal domestic wastewater, a surcharge will be collected in addition to the sewer user charge. The surcharge for operation and maintenance including replacement is:

$0.35 per pound BOD

$0.22 per pound SS

99.09 RESPONSIBILITY FOR INCREASED COSTS. Any user which discharges any toxic pollutants which cause an increase in the cost of managing the effluent or the sludge from the City’s treatment works or any user which discharges any substance which singly or by interaction with other substances causes identifiable increases in the cost of operation, maintenance or replacement of the treatment works shall pay for such increased costs. The charge to each such user shall be as determined by the Superintendent and approved by resolution of the Council.
99.10 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. Provided, however, any such agreement shall be consistent with the provisions of the Federal Clean Water Act.

99.11 APPLICATION. The user charge rates established in this chapter apply to all users of the City's treatment works, regardless of their location.

99.12 PAYMENT OF BILLS. All sewer user 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.

99.13 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 may be certified to the County Treasurer for collection in the same manner as property taxes.

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

99.14 REVIEW OF USER CHARGE SYSTEM. The City shall review the user charge system at least every two (2) years and revise user charge rates as necessary to ensure that the system generates adequate revenues to pay the costs of operation and maintenance including replacement and that the system continues to provide for the proportional distribution of operation and maintenance including replacement costs among users and user classes.

99.15 NOTIFICATION OF RATE CHANGE. The City will notify each user at least annually, in conjunction with a regular bill, of the rate being charged for operation and maintenance including replacement of the treatment works.
CHAPTER 100

REGULATION OF INDUSTRIAL WASTEWATER,
COMMERCIAL WASTEWATER AND HAULED WASTE

EDITOR’S NOTE

The Regulation of Industrial Wastewater, Commercial Wastewater and Hauled Waste, adopted July 17, 2006, by Ordinance No. 735, and amendments thereto, contained in a separate volume, are a part of this Code of Ordinances and are in full force and effect.
CHAPTER 101

BENEFITED SEWER DISTRICTS

101.01 PURPOSE. The City has determined the necessity of establishing a policy and a procedure to be utilized to recover the cost of design and construction of major sanitary sewer facilities in those instances in which a significant number of the properties to be benefited by such facilities are not sufficiently developed to permit the recovery of those costs through the special assessment process as provided in Chapter 384, Division IV of the Code of Iowa. The City hereby declares its intent to utilize connection fees, as herein provided, to recover the costs for design and construction of such major sanitary sewer facilities from property owners who connect to such facilities subsequent to their construction.

101.02 INTENT. It is the intent of this chapter to set forth the method of recovery of proportional cost shares from those property owners who connect their properties to major sanitary sewer facilities subsequent to their construction, so that in the event that all property, other than street and road right-of-way, which lies within the benefited district is connected to the major sanitary sewer facilities during their expected useful life, then those properties shall bear, in the aggregate, up to 100 percent of the cost for design and construction of such facilities, including legal, administrative, and interest expenses associated therewith.

101.03 PROCEDURE.

1. In the event the Council determines the necessity for construction of a major sanitary sewer facility, and determines that the utilization of a connection fee is the most equitable manner in which to recover the City’s costs associated therewith, the Council shall cause a “Notice of Public Hearing on the Proposed Adoption of an Ordinance to Establish a Benefited District and a Connection Fee Schedule” to be published in a newspaper of general circulation within the City as hereinafter provided. In addition to indicating the date, time, and place of the public hearing, the notice shall:

   A. Indicate the nature and extent of the major sanitary sewer facility or facilities under consideration for construction, as well as the estimated cost or costs for the design and construction of same;

   B. Identify by general description the proposed benefited district to be served by the major sanitary sewer facility or facilities; and

   C. Set forth the proposed schedule of connection fees to be paid by property owners within the benefited district who connect to said facilities, expressed in dollars per acre of land area served or such other method as the City shall determine to be equitable for the benefited district.

The notice shall also state that the proposed connection fee ordinance is on file, along with a plat of the area to be served, and both are available for public inspection in the office of the Clerk. The notice shall be published not more than 45 days and not less
than 20 days prior to the scheduled date of the public hearing, and shall be mailed to each property owner within the benefited district as shown by the records of the County Auditor.

2. At the public hearing, the owners of property within the proposed benefited district shall be heard and may offer comments or objections as to:
   A. The necessity for the project;
   B. The calculation of the area benefited by the proposed major sanitary sewer facilities;
   C. The estimated cost of the proposed facilities; and
   D. The proposed connection fee.

3. Upon concluding the hearing, the Council shall rule upon the objections presented during the hearing and may consider the adoption of the proposed connection fee ordinance. Upon consideration of the proposed connection fee ordinance, the Council may:
   A. Adopt the ordinance as proposed;
   B. Delete elements or portions of the proposed major sanitary sewer facilities from the proposed project and the properties served thereby from the benefited district proposed; or
   C. Amend the ordinance to revise the connection fee.

4. The connection fee ordinance may provide, at the Council’s discretion, that single family residences within the benefited district, in existence or under construction upon the effective date of the ordinance, and located within the corporate limits of the City, are eligible for connection to the major sanitary sewer facility. In that event, the ordinance shall include the following provisions:
   A. That the owners of residences on parcels of less than one acre in size located within the City may connect such residences to the major sanitary sewer facility upon approval of their application for connection, payment of the connection fee for the parcel, and construction, at the owner’s expense, of appropriate connection structures, as determined necessary by the City.
   B. That the owners of residences on parcels in excess of one acre in size located within the City may connect such residences to the major sanitary sewer facility upon approval of their application for connection, division of said parcel into a residence parcel and a remainder parcel, payment of the connection fee for the residence parcel, and construction, at the owner’s expense, of appropriate connection structures, as determined necessary by the City. The connection fee for the remainder parcel shall be payable at such time as the remainder parcel shall be connected to the major sanitary sewer facility. For purposes of this chapter, a parcel may be divided once. For purposes of this section, division of the property into a residence parcel and a remainder parcel may be accomplished by submitting a drawing showing a graphical depiction of the two parcels including dimensions accurate to within a distance of one foot, a legal description of the entire parcel and a legal description of the residence parcel with such accuracy as to allow the City to determine a reasonable description of the remainder parcel. For purposes of
this section, the division of property does not require a subdivision of the property or a plat of survey.

C. The connection fee ordinance may also provide, at the Council’s discretion, that sanitary sewer service can be provided to recreational and park facilities and to commercial and industrial parcels and facilities, in the same manner and under the same procedures set forth in this section for single family residences within the benefited district.

All other property located within the corporate limits of the City and within a benefited district shall be eligible for connection to the major sanitary sewer facility upon approval of an application for connection by the owner thereof, as hereafter provided, and payment of the connection fee for such property, provided such property has been appropriately subdivided for development, and, where applicable, all sanitary sewer improvements necessary to serve said property have been constructed, at the owner’s expense, and accepted by the City.

5. After adoption, publication and recording by the Clerk of a connection fee ordinance for a benefited district, all owners of those properties within the benefited district whose properties are eligible for connection, and who propose to connect such properties directly or indirectly to the major sanitary sewer facility, shall make application to the City for such connection. The submittal of construction plans to the City for sanitary sewer improvements on property being subdivided for development shall constitute an application to the City for purposes of this chapter. The sewer connection fee shall be due and payable at the time application is made to the City for connection to the major sanitary sewer facility. No connection shall be made to a major sanitary sewer facility until such application has been approved and until the required connection fee has been paid. The sewer connection fee shall be paid before the City will approve the final plat of property subject to the connection fee.

6. The sewer connection fee shall be in an amount equal to the maximum acre area of contiguous property, or fraction thereof, within the benefited district under common ownership which can be lawfully served through such proposed connection, multiplied by the per acre connection fee or such other fee basis as determined for the benefited district established in the connection fee ordinance for that benefited district. The connection fee ordinance may provide for a graduated connection fee, with annual interest adjustments, such that property owners who connect in later years pay interest on the connection fee for their property. The rate of interest applicable to the connection fee established in each benefited district shall not exceed the rate of interest applicable to special assessments pursuant to Chapter 74A and Section 384.60(3) of the Iowa Code in effect on the date that the connection fee was established for that district by enactment of a connection fee ordinance.

7. The sewer connection fee required by this chapter shall be due and payable to the City and is in addition to, and not in lieu of, any other fees for connection required under the plumbing code or other provisions of this Code of Ordinances.

8. In the event any property owner connects his or her property within a benefited district to a major sanitary sewer facility without having made application therefor or without having received approval thereof or without having paid the required connection fee established by a connection fee ordinance, the City shall be entitled to disconnect such private sewer connection until such time as the property owner has made and received approval of his or her application, and/or has paid the required connection fee.
101.04 BEAVER CREEK TRUNK BENEFITED DISTRICT.

1. Connection Fee and District. No person shall connect a sanitary sewer of any size and for any purpose to the Beaver Creek Trunk Sewer without paying to the City a connection fee of $909.70 per acre within the following legally described district:

The Southwest Quarter (SW ¼) of Section 2, Township 79 North, Range 25 West of the 5th Principal Meridian located in the City of Johnston, Polk County, Iowa.

The Southeast Quarter (SE ¼) of Section 3, Township 79 North, Range 25 West of the 5th Principal Meridian located in the City of Johnston, Polk County, Iowa, except the east 1,088.24 feet of the Southeast Quarter (SE ¼) of the Southeast Quarter (SE ¼) of said Section 3.

The Northeast Quarter (NE ¼) of Section 10, Township 79 North, Range 25 West of the 5th Principal Meridian located in the City of Johnston, Polk County, Iowa, except the Northeast Quarter (NE ¼) of the Northeast Quarter (NE ¼) of said Section 10.

The Southeast Quarter (SE ¼) of Section 10, Township 79 North, Range 25 West of the 5th Principal Meridian located in the City of Johnston, Polk County, Iowa.

That portion of the Southwest Quarter (SW ¼) of Section 11, Township 79 North, Range 25 West of the 5th Principal Meridian located in the City of Johnston, Polk County, Iowa, lying southerly and westerly of the following described line: Commencing at the south quarter corner of said Section 11; thence north along the east line of the Southwest Quarter (SW ¼) of said Section 11 to the northeast corner of the South Half (S ½) of the Southwest Quarter (SW ¼) of said Section 11; thence westerly along the north line of the South Half (S ½) of the Southwest Quarter (SW ¼) of Section 11 to a point on the north line of the South Half (S ½) of the Southwest Quarter (SW ¼) of Section 11, said point being a distance of 1,933.3 feet east of the west line of Section 11; thence south a distance of 264.9 feet; thence west a distance of 460 feet; thence south a distance of 738 feet, more or less, to a point 300 feet north of the south line of the Southwest Quarter (SW ¼) of Section 11; thence westerly along a line parallel to and 300 feet north of the south line of the Southwest Quarter (SW ¼) of Section 11 to the west line of Glendale Oaks Plat 1; thence north along the east line of Glendale Oaks Plat 1 to the north line of the South Half (S ½) of the Southwest Quarter (SW ¼) of Section 11; thence west along the north line of the South Half (S ½) of the Southwest Quarter (SW ¼) of Section 11 to the west line of Section 11; thence north along the west line of the Southwest Quarter (SW ¼) of Section 11 to the northwest corner of the south 330 feet of the North Half (N ½) of the Southwest Quarter (SW ¼) of Section 11; thence east along the north line of the south 330 feet of the North Half (N ½) of the Southwest Quarter (SW ¼) of Section 11 to a point a distance 2,008 feet west of the east line of the Southwest Quarter (SW ¼) of Section 11; thence northeasterly a distance of 318.4 feet; thence west a distance of 653.2 feet to a point on the west line of the Southwest Quarter (SW ¼) of Section 11 to the West Quarter (W ¼) corner of Section 11.
The East Half (E ½) of the Southeast Quarter (SE ¼) of Section 11, Township 79 North, Range 25 West of the 5th Principal Meridian located in the City of Johnston, Polk County, Iowa, except that portion of the East Half (E ½) of the Southeast Quarter (SE ¼) of said Section 11 lying northerly and easterly of Beaver Creek.

That portion of the West Half (W ½) of the Southeast Quarter (SE ¼) of Section 11, Township 79 North, Range 25 West of the 5th Principal Meridian lying southerly and westerly of the following described line: Commencing at the south quarter corner of said Section 11; thence easterly along the south line of the Southeast Quarter (SE ¼) of said Section 11 to a point 669 feet east of the south quarter corner of said Section 11; thence north a distance of 183 feet; thence east a distance of 85 feet; thence north a distance of 375 feet; thence west a distance of 405 feet; thence northwesterly a distance of 583.6 feet to a point on the west line of the Southeast Quarter (SE ¼) of said Section 11, said point being a distance of 1,203.6 feet north of the south quarter corner of said Section 11; thence south along the west line of the Southeast Quarter (SE ¼) of said Section 11 to the south quarter corner of said Section 11, said point being the point of beginning.

2. Adjustment and Division. If a parcel as described in subsection 1 of this section is divided by platting or otherwise into a smaller parcel and the connection fee can be equitably divided between the smaller parcels, the person desiring a division shall make application to the City for a division of the connection fee. The application shall legally describe the affected property, the connection fee to be assigned to each, and the purpose of the division. If the City incurs any expense in reviewing and approving the application, it shall be paid by the applicant before approval. If the Council approves the division, the division shall be incorporated into subsection 1 by amendment of this section.

3. Construction and Dedication. Any sanitary sewer connection to this trunk line sewer shall conform to the specifications of the City, be constructed at the expense of the applicant and, if required by the City, dedicated to it with a conveyance of a perpetual easement of a parcel of ground as determined by the City for the maintenance, repair, construction and reconstruction of the dedicated sanitary sewer.

4. Future Connection Plan. Any property or properties that connect directly or indirectly to the thirty-inch sanitary sewer beyond the legally described properties above shall also be subject to the connection fee specified in subsection 1. This requirement shall also apply to properties annexed into the corporate limits of the City in the future.

5. Recordation. The Clerk shall certify a copy of the ordinance codified in this section and any amendments to the County Recorder for recording.

**101.05 NW BEAVER DRIVE TRUNK BENEFITED DISTRICT.**

1. Sanitary Sewer Connection Fee District. The NW Beaver Drive Trunk Sewer Connection Fee District is hereby established consisting of a tract of land located along the easterly side of NW Beaver Drive in the City of Johnston, Polk County, Iowa, more particularly described as follows:
Commencing at a point on the east right-of-way line of NW Beaver Drive, said point being the southwest corner of Lot 7, B.L. Peters Plat 1; thence east along the south line of Lot 7, B.L. Peters Plat 1 to a point, said point being located a distance of 100 feet east of the east right-of-way line of NW Beaver Drive; thence northerly along a line parallel and 100 feet easterly of the easterly right-of-way line of NW Beaver Drive to a point; said point being located on the southerly right-of-way line of NW 66th Avenue; thence westerly along the southerly right-of-way line of NW 66th Avenue to the easterly right-of-way line of NW Beaver Drive; thence southerly along the easterly right-of-way line of NW Beaver Drive to the point of beginning.

2. District Connection Fees. Connection fees are hereby established and shall be imposed upon owners of properties within the NW Beaver Drive Trunk Sewer District at the time of application to connect their properties to said sanitary sewer facilities as follows:

A. From the effective date of the ordinance codified herein to June 30, 2002, a connection fee of $210 per acre of property served by the sanitary sewer facility shall be imposed plus $28 per linear foot of frontage for all property adjoining and fronting on NW Beaver Drive. Thereafter the per-acre connection fee shall be adjusted annually as of July 1 of each year according to the following schedule:

<table>
<thead>
<tr>
<th>Effective Date</th>
<th>Connection Fee ($/acre)</th>
<th>Frontage ($/foot)</th>
</tr>
</thead>
<tbody>
<tr>
<td>July 1, 2003</td>
<td>$202.00</td>
<td>$29.00</td>
</tr>
<tr>
<td>July 1, 2004</td>
<td>$230.00</td>
<td>$30.00</td>
</tr>
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<td>July 1, 2005</td>
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<td>July 1, 2006</td>
<td>$250.00</td>
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<td>July 1, 2010</td>
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<td>July 1, 2011</td>
<td>$300.00</td>
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</tr>
<tr>
<td>July 1, 2012</td>
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<td>$38.00</td>
</tr>
<tr>
<td>July 1, 2013</td>
<td>$320.00</td>
<td>$39.00</td>
</tr>
</tbody>
</table>

B. The above established connection fee shall include payment of both the area based connection fee and the frontage based connection fee.

C. The above established connection fees shall also apply to any properties outside the NW Beaver Drive Trunk Sewer District which use any of the sanitary sewer facilities constructed for the NW Beaver Drive Trunk Sewer District. The appropriate fee shall be imposed at the time of determination that a benefit is derived by the property.

D. The above established connection fees shall not apply to any properties within the NW Beaver Drive Trunk Sewer District which do not use any sanitary sewer facilities constructed for the NW Beaver Drive Trunk Sewer District.
E. The determination that a property is to be connected to the sanitary sewer facilities shall occur and the appropriate connection fee shall be paid prior to the time of the release of a final plat for recordation, the issuance of a building permit, or the issuance of a plumbing permit, whichever occurs first.

F. Any single family residence existing or under construction upon the effective date of the ordinance codified herein located upon a parcel in excess of one acre may apply for connection upon division of said parcel into a single family residence parcel and an outlot in the payment of a single acre connection fee. Any development of said parcel shall necessitate a revised application for connection and payment of the appropriate connection. For purpose of this section, subdivision of the property into a single family residence parcel and an outlot shall only require a reasonably accurate graphical division of the property and shall not be construed to require a legal division of property.

101.06 NW 66TH AVENUE BENEFITED DISTRICT.

1. Special Sanitary Sewer District with Access Fee Established. There is hereby established a special sanitary sewer service district within the following described property:

   Commencing at the northeast corner of Lot 1, Hyperion Point Plat 1; thence west along the north line of Hyperion Point Plat 1 to a point on the north line of Lot 4 Hyperion Point Plat 1, said point being a distance of 33.00 feet east of the northwest corner of said Lot 4; thence south along a line parallel to and 33.00 feet east of the west line of said Lot 4 to the north right-of-way line of NW 66th Avenue; thence south to a point on the south right-of-way line of NW 66th Avenue; thence west along the north line of Lot 56, Hyperion Heights Plat 1 to a point on the north line of Lot 56, said point being a distance of 45.00 feet east of the northwest corner of said Lot 56; thence south along a line parallel to and 45.00 feet east of the west line of said Lot 56, to a point on the south line of said Lot 56; thence east along the south line of Hyperion Heights Plat 1 to the southeast corner of Lot 61, Hyperion Heights Plat 1; thence north along the east line of Hyperion Heights Plat 1 to the point of beginning.

Within this district the cost to extend sanitary sewer service to properties is based upon a policy to assess properties for sanitary sewer extension at $28.00 per linear foot of frontage.

2. Connection of Sanitary Sewer Service. Any parcel of ground or lot of record may be connected to the sanitary sewer service upon payment of the connection fee and other required fees subject to subsection 1 of this section. If the connection is not made within sixty days of completion of the sanitary sewer the City may charge interest based upon the time difference between the completion of construction of the utility and the payment of the connection fee pursuant to Section 384.38(3), Code of Iowa. The properties that make a connection to this utility shall also be charged the usual fees for connection, and any other fees established by ordinance.

3. Optional Petition and Waiver. Any owner of any parcel of ground or lot of record within the NW 66th Avenue Sanitary Sewer Extension District may, as an alternative to the connection fee payment required in subsection 2, sign a petition and
waiver as provided for in Chapter 384 of the Code of Iowa. If a petition and waiver is signed by such an owner and approved by the Council, the assessment for said owner’s parcel of ground or lot of record shall be based on $28.00 per linear foot of frontage. In addition, any owner signing a petition and waiver which is approved by the Council shall be allowed to make payments towards the total assessment, as allowed under Chapter 384 of the Code of Iowa. However, any owner desiring to sign a petition and waiver must do so prior to October 4, 1999.

4. Mandatory Connection Required. The provisions of Section 95.05 of this Code of Ordinances, regarding mandatory sewer connection, shall apply to the NW 66th Avenue Sanitary Sewer Extension District. Any houses or buildings not connected to the sanitary sewer by May 1, 2001, shall be notified by the City, in writing, to make such connection. All connections shall be made no later than November 1, 2001.

101.07 NORTHWEST AREA SANITARY SEWER CONNECTION DISTRICT.

1. Northwest Area Sanitary Sewer Connection District Established. The Northwest Sanitary Sewer Connection Fee District is hereby established consisting of a tract of land in Sections 3, 4 and 9 of Township 79 North, Range 25 West of the 5th Principal Meridian, Polk County, Iowa, and Sections 33 and 34 of Township 80 North, Range 25 West of the 5th Principal Meridian, Polk County, Iowa, more particularly described as follows, and as graphically depicted on Exhibit A attached to Ordinance No. 702 on file in the office of the Clerk and made a part hereof:

Commencing at the northeast corner of Section 9, Township 79 North, Range 25 West of the 5th Principal Meridian; thence south along the east line of said S Section 9 to the East Quarter corner of said Section 9; thence west along the south line of the Northeast Quarter of said Section 9 to the center of said Section 9; thence north along the west line of the Northeast Quarter of said Section 9 to the North Quarter corner of said Section 9; thence north along the west line of the Southeast Quarter of Section 4, Township 79 North, Range 25 West of the 5th Principal Meridian to the center of said Section 4; thence north along the west line of the Northeast Quarter of said Section 4 to the North Quarter corner of said Section 4; thence east along the south line of Section 33, Township 80 North, Range 25 West of the 5th Principal Meridian to the point of intersection with the centerline of 107th Street; thence northwesterly along the centerline of the right-of-way of 107th Street to a point on the north line of the South Half of the Southeast Quarter of said Section 33; thence east along the north line of the South Half of the Southeast Quarter of Section 33 to the centerline of the right-of-way of NW 100th Street; thence southerly along the centerline of the right-of-way of NW 100th Street to a point on the south line of the Southeast Quarter of said Section 33; thence east along the south line of said Section 33 to the southeast corner of said Section 33; thence east along the south line of Section 34, Township 80 North, Range 25 west to the South Quarter corner of said Section 34; thence north along the west line of the Southeast Quarter of said Section 34 to the northwest corner of the South Half of the Southeast Quarter of said Section 34; thence east along the north line of the South Half of the Southeast Quarter of said Section 34 to the
northeast corner of the South Half of the Southeast Quarter of said Section 34; thence south along the east line of the South Half of the Southeast Quarter of said Section 34 to the southeast corner of said Section 34; thence south along the east line of the Northeast Quarter of Section 3, Township 79 North, Range 25 West to the southeast corner of the North Half of the Northeast Quarter of said Section 3; thence west along the south line of the North Half of the Northeast Quarter of said Section 3 to the southwest corner of the North Half of the Northeast Quarter of said Section 3; thence west along the south line of the North Half of the Northwest Quarter of said Section 3 to the southwest corner of the North Half of the Northwest Quarter of said Section 3; thence south along the west line of the Northwest Quarter of said Section 3 to the West Quarter corner of said Section 3; thence south along the east line of Section 4, Township 80 North, Range 25 West to a point on the east line of the Southeast Quarter of said Section 4, said point being located a distance of 989.77 feet north of the southeast corner of said Section 4; thence west a distance of 882.27 feet; thence south a distance of 989.1 feet to a point on the south line of the Southeast Quarter of said Section 4; thence east along the south line of the Southeast Quarter of said Section 4 to the southeast corner of said Section 4, said point being the point of beginning.

and

The West Half of the Northeast Quarter of Section 33, Township 80 North, Range 25 West of the 5th Principal Meridian.

Connection fees are hereby established and shall be imposed upon owners of properties within the Northwest Area Sanitary Sewer Connection Fee District at the time of application to connect their property to said sewer facilities.

2. Fee Schedule. Connection fees shall be imposed as follows:

A. Area Connection Fee. A connection fee per acre of property served by the sanitary sewer facilities shall be imposed according to the following schedule:

<table>
<thead>
<tr>
<th>Effective Date</th>
<th>Connection Fee ($/acre)</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 20, 2004</td>
<td>$2,200.00</td>
</tr>
<tr>
<td>July 1, 2006</td>
<td>$2,300.00</td>
</tr>
<tr>
<td>July 1, 2007</td>
<td>$2,400.00</td>
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<td>July 1, 2008</td>
<td>$2,500.00</td>
</tr>
<tr>
<td>July 1, 2009</td>
<td>$2,600.00</td>
</tr>
<tr>
<td>July 1, 2010</td>
<td>$2,700.00</td>
</tr>
<tr>
<td>July 1, 2011</td>
<td>$2,800.00</td>
</tr>
<tr>
<td>July 1, 2012</td>
<td>$2,900.00</td>
</tr>
<tr>
<td>July 1, 2013</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>July 1, 2014</td>
<td>$3,100.00</td>
</tr>
<tr>
<td>July 1, 2015</td>
<td>$3,200.00</td>
</tr>
</tbody>
</table>
B. Frontage Connection Fee. A frontage fee connection is established for all property directly adjoining and abutting the sanitary sewer facilities constructed under this section according to the following schedule:

<table>
<thead>
<tr>
<th>Effective Date</th>
<th>Connection Fee ($/foot)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 20, 2004</td>
<td>$30.00</td>
</tr>
<tr>
<td>July 1, 2006</td>
<td>$31.50</td>
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<tr>
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<td>July 1, 2009</td>
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<td>July 1, 2010</td>
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<td>July 1, 2012</td>
<td>$40.50</td>
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<tr>
<td>July 1, 2013</td>
<td>$42.00</td>
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<tr>
<td>July 1, 2014</td>
<td>$43.50</td>
</tr>
<tr>
<td>July 1, 2015</td>
<td>$45.00</td>
</tr>
</tbody>
</table>

*Connection fee is per side of sewer.

3. Applicability of Frontage Fee. The frontage fee established under this section shall be applicable in those instances where the property owner utilizes the major sanitary sewer facility constructed by the City under this section in lieu of constructing a sanitary sewer to serve the property. The frontage fee shall not be applicable in those instances where a major sanitary sewer facility adjoins the boundary of the property that requires the development of internal sewers to provide sewer service to the property.

4. Fee Outside District. The established connection fee shall apply to any property outside of the Northwest Area Sanitary Sewer Connection Fee District that uses or derives benefit from any of the sewer facilities constructed for the Northwest Area Sanitary Sewer Connection Fee District. The appropriate fee shall be imposed at the time of determination that a benefit is derived from the property.

5. Exception within District. The established connection fee shall not apply to any properties within the Northwest Area Sanitary Sewer Connection Fee District area that do not use any sanitary sewer facilities constructed for the Northwest Area Sanitary Sewer Connection Fee District.

6. Payment. The determination that a property is to be connected to the sewer facilities shall occur and the appropriate connection fee shall be paid prior to the time of release of a final plat for recordation or the issuance of a building or plumbing permit, whichever occurs first.

7. Existing Single Family Residence. Any single family residence existing or under construction upon the effective date of the ordinance codified in this section located upon a parcel in excess of one acre may apply for connection upon division of said parcel into a single family residence parcel and an outlot in the payment of a single acre connection fee. Any development of said parcel shall necessitate a revised application for connection and payment of the appropriate connection. For purposes of this section, subdivision of the property into a single family residence parcel and an outlot shall only require a reasonably accurate graphical division of the property and shall not be construed to require a legal division of the property.
101.08 LITTLE BEAVER CREEK SANITARY SEWER CONNECTION DISTRICT.

1. The Little Beaver Creek Sanitary Sewer Extension Connection Fee District is hereby established consisting of a tract of land in Sections 27 and 34, Township 80 North, Range 25 West of the Fifth Principal Meridian, Polk County Iowa, more particularly described as follows, and as graphically depicted on Exhibit A attached to Ordinance No. 805 and made a part hereof:

Beginning at the southeast corner of the Northeast Quarter of the Northwest Quarter of Section 34, Township 80 North, Range 25 West of the Fifth Principal Meridian, Polk County Iowa; thence west along the south line of the north half of the Northwest Quarter of said Section 34 to the southwest corner of the north half of the Northwest Quarter of said Section 34; thence north along the west line of the north half of the Northwest Quarter of said Section 34 to the northwest corner of said Section 34; thence north, 1020.19 feet along the west line of the Southwest Quarter of Section 27, Township 80 North, Range 25 West of the Fifth Principal Meridian, Polk County Iowa; thence south 89°59’57” east, 171.53 feet; thence south 36°58’34” east, 505.19 feet, thence east, 861.05 feet; thence north 61°23’26” east, 207.24 feet; thence east, 521.54 feet; thence south 44°43’00 east, 392.19 feet; thence south 22°27’57 west, 493.30 feet; thence south 89°34’18” east, 149.60 feet to the southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 27; thence north along the west line of the North Quarter of the Southwest Quarter of said Section 27 to the northwest corner of the Northwest Quarter of the Northeast Quarter of said Section 27; thence east along the north line of the Northeast Quarter of the Southwest Quarter of said Section 27 to the northeast corner of the Southwest Quarter of said Section 27; thence south along the east line of the Southwest Quarter of the Northwest Quarter of said Section 27 to the southeast corner of the Southeast Quarter of the Northwest Quarter of said Section 27; thence east along the north line of the Southeast Quarter of the Northwest Quarter of said Section 34 to the northeast corner of Sweeney Acres, an official plat in Polk County, Iowa; thence west along the north line of said Sweeney Acres to the northwest corner of said Sweeney Acres; thence south along the west line of said Sweeney Acres to the southwest corner of said Sweeney Acres; thence east 179.5 feet along the south line of said Sweeney Acres thence south 535 feet; thence east 233 feet to a point on the east line of the Northeast Quarter of the Northeast Quarter of said Section 34; thence south along the east line of the Northwest Quarter of the Northeast Quarter of said Section 34 to southeast corner of Southeast Quarter of the Northeast Quarter of said Section 34; thence south 160 feet; thence west 33 feet to the west right-of-way line of Northwest 86th Street also being the southeast corner of Lot 4 in Beaver Valley Country Estates, an official plat in Polk County,
Iowa; thence west 650 feet along the south line of said Lot 4 to a corner on the southerly line of said Lot 4; thence north 160 feet along a west line of said Lot 4 to a corner on the south line of said Lot 4; thence west 1,965.8 feet to the southwest corner of said Lot 4, thence north 1,324.2 feet along the west line of said Lot 4 to the northwest corner of said Lot 4, also being the southeast corner of the Northeast Quarter of the Northwest Quarter of said Section 34 and the point of beginning.

Connection fees are hereby established and shall be imposed upon owners of properties within the Little Beaver Creek Sanitary Sewer Extension Connection Fee District at the time of application to connect their property to said sewer facilities.

2. Fee Schedule. Connection fees shall be imposed as follows:

A. Area Connection Fee. A connection fee per acre of property served by the sanitary sewer facilities shall be imposed according to the following schedule adjusted annually, which includes increases into which a reasonable amount of interest has been calculated from the date of construction to the date of payment:

<table>
<thead>
<tr>
<th>Effective Date</th>
<th>Connection Fee ($/acre)</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 22, 2009</td>
<td>$2,850.00</td>
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<td>July 1, 2010</td>
<td>$2,950.00</td>
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<tr>
<td>July 1, 2011</td>
<td>$3,050.00</td>
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<tr>
<td>July 1, 2012</td>
<td>$3,150.00</td>
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<td>July 1, 2013</td>
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<td>July 1, 2018</td>
<td>$3,750.00</td>
</tr>
<tr>
<td>July 1, 2019</td>
<td>$3,850.00</td>
</tr>
</tbody>
</table>

B. Frontage Connection Fee. A frontage fee connection is established for all property directly adjoining and abutting the sanitary sewer facilities constructed under this section according to the following schedule adjusted annually, which includes increases into which a reasonable amount of interest has been calculated from the date of construction to the date of payment:

<table>
<thead>
<tr>
<th>Effective Date</th>
<th>Connection Fee ($/foot)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>May 22, 2009</td>
<td>$36.00</td>
</tr>
<tr>
<td>July 1, 2010</td>
<td>$37.50</td>
</tr>
<tr>
<td>July 1, 2011</td>
<td>$39.00</td>
</tr>
<tr>
<td>July 1, 2012</td>
<td>$40.50</td>
</tr>
<tr>
<td>July 1, 2013</td>
<td>$42.00</td>
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<td>$43.50</td>
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<td>$45.00</td>
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<tr>
<td>July 1, 2016</td>
<td>$46.50</td>
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<tr>
<td>July 1, 2017</td>
<td>$48.00</td>
</tr>
<tr>
<td>July 1, 2018</td>
<td>$49.50</td>
</tr>
<tr>
<td>July 1, 2019</td>
<td>$51.00</td>
</tr>
</tbody>
</table>

*Connection fee is per side of sewer.
3. Applicability of Frontage Fee. The frontage fee established under this section shall be applicable in those instances where the property owner utilizes the major sanitary sewer facility constructed by the City under this section in lieu of constructing a sanitary sewer to serve the property. The frontage fee shall not be applicable in those instances where a major sanitary sewer facility adjoins the boundary of the property that requires the development of internal sewers to provide sewer service to the property.

4. Fee Outside District. The established connection fee shall apply to any property outside of the Little Beaver Creek Sanitary Sewer Extension Connection Fee District that uses or derives benefit from any of the sewer facilities constructed for the Little Beaver Creek Sanitary Sewer Extension Connection Fee District. The appropriate fee shall be imposed at the time of determination that a benefit is derived from the property.

5. Exception Within District. The established connection fee shall not apply to any properties within the Little Beaver Creek Sanitary Sewer Extension Connection Fee District area that do not use any sanitary sewer facilities constructed for the Little Beaver Creek Sanitary Sewer Extension Connection Fee District.

6. Payment. The determination that a property is to be connected to the sewer facilities shall occur and the appropriate connection fee shall be paid prior to the time of release of a final plat for recordation or the issuance of a building or plumbing permit, whichever occurs first.

7. Existing Single Family Residence. Any single family residence existing or under construction upon the effective date of the ordinance codified in this section located upon a parcel in excess of one acre may apply for connection upon division of said parcel into a single family residence parcel and an outlot in the payment of a single acre connection fee. Any development of said parcel shall necessitate a revised application for connection and payment of the appropriate connection. For purposes of this section, subdivision of the property into a single family residence parcel and an out lot shall only require a reasonably accurate graphical division of the property and shall not be construed to require a legal division of the property.

8. Unauthorized Connections Constitute Municipal Infraction. Any unauthorized connection(s) to the Little Beaver Creek sanitary sewer within the Little Beaver Creek Sanitary Sewer Extension Connection Fee District will constitute a municipal infraction pursuant to Chapter 3 of the City Code.

(Ord. 805 – Sep. 09 Supp.)

101.09 EAST OF MERLE HAY ROAD AND SOUTH OF NW 62ND AVENUE SANITARY SEWER EXTENSION CONNECTION FEE DISTRICT.

1. Definitions.

A. "Benefitted Service Area" means a designated area to which sanitary sewer service will be provided by a sanitary sewer utility of a given design and capacity.

B. "The East of Merle Hay Road and South of NW 62nd Avenue Sanitary Sewer Extension Connection Fee District" means an area within the City limits of Johnston, Iowa, described as follows:

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER, THE SOUTHWEST QUARTER AND THE SOUTHEAST QUARTER
ALL IN SECTION 7, TOWNSHIP 79 NORTH, RANGE 24 WEST OF THE FIFTH PRINCIPAL MERIDIAN, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF JOHNSTON, POLK COUNTY, IOWA, MORE PARTICULARLY DESCRIBED AS FOLLOWS,

more particularly described as follows, and as graphically depicted on Exhibit A attached to this Ordinance and made a part hereof:

BEGINNING AT THE SOUTH QUARTER CORNER OF THE SAID SECTION 7, THENCE SOUTH 89º02' 25" WEST, 2004.63 FEET ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 7 TO THE SOUTHWEST CORNER OF LOT 12 OF BEAVER FARMS AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF JOHNSTON, POLK COUNTY, IOWA; THENCE NORTH 00º 10' 06" EAST, 194.13 FEET ALONG THE WEST LINE OF SAID LOT 12; THENCE SOUTH 89º03' 48" WEST, 329.09 FEET TO THE WEST LINE OF LOT 11 OF BEAVER FARMS; THENCE NORTH 00º 08' 19" EAST, 448.01 FEET ALONG THE WEST LINE OF SAID LOT 11 TO THE SOUTH RIGHT-OF-WAY LINE OF NORTHWEST 55TH AVENUE; THENCE NORTH 00º09' 26" EAST, 63.21 FEET TO THE NORTH RIGHT-OF-WAY LINE OF NORTHWEST 55TH AVENUE; THENCE NORTH 89º 09' 45" EAST, 131.94 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF NORTHWEST 55TH AVENUE TO THE WEST LINE OF THE WEST 138 FEET OF THE SOUTH 200 FEET OF THE EAST 3/5 OF LOT 8 IN BEAVER FARMS; THENCE NORTH 00º05' 28" EAST, 178.11 FEET ALONG THE WEST LINE OF THE WEST 138 FEET OF THE SOUTH 200 FEET OF THE EAST 3/5 OF LOT 8 IN BEAVER FARMS; THENCE NORTH 89º 05' 55" EAST, 138.16 FEET ALONG THE NORTH LINE OF THE WEST 138 FEET OF THE SOUTH 200 FEET OF THE EAST 3/5 OF LOT 8 IN BEAVER FARMS TO THE NORTH LINE OF THE WEST 200 FEET OF THE EAST 3/5 OF LOT 8 IN BEAVER FARMS; THENCE NORTH 89º 05' 55" EAST, 138.16 FEET ALONG THE NORTH LINE OF THE WEST 200 FEET OF THE EAST 3/5 OF LOT 8 IN BEAVER FARMS TO THE WESTERLY LINE OF OUTLOT "Z" OF THE VILLAGE AT JOHNSTON STATION, OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF JOHNSTON, POLK COUNTY, IOWA; THENCE SOUTH 00º10' 06" WEST, 191.01 FEET ALONG THE WESTERLY LINE OF SAID OUTLOT "Z" TO THE SOUTH LINE OF SAID OUTLOT "Z; THENCE NORTH 89º 03' 54" EAST, 210.78 FEET ALONG THE SOUTH LINE OF SAID OUTLOT "Z" TO THE EASTERLY LINE OF SAID OUTLOT "Z; THENCE NORTH 00º11' 52" EAST, 257.05 FEET ALONG THE EASTERLY LINE OF SAID OUTLOT "Z TO THE SOUTHERLY LINE OF SAID OUTLOT "Z; THENCE NORTH 89º 03' 55" EAST, 177.98 FEET ALONG THE SOUTHERLY LINE OF SAID OUTLOT "Z" TO THE EAST LINE OF SAID OUTLOT "Z"; THENCE NORTH 00º11' 52" EAST, 374.62 FEET ALONG THE EAST LINE OF SAID OUTLOT "Z" TO THE NORTH LINE OF SAID OUTLOT "Z"; THENCE SOUTH 89º05' 39 WEST, 662.61 FEET ALONG THE NORTH LINE OF SAID OUTLOT "Z" TO THE SOUTHWEST CORNER OF LOT 24, IN FRUITLAND AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF JOHNSTON, POLK COUNTY, IOWA; THENCE
NORTH 00° 08' 11" EAST, 640.54 FEET ALONG THE WEST LINE OF SAID LOT 24 TO THE SOUTH RIGHT-OF-WAY LINE OF NW 57TH AVENUE; THENCE SOUTH 89°04' 59" WEST, 37.47 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF NW 57TH AVENUE; THENCE NORTH 00°08' 10" EAST, 42.15 FEET TO THE NORTH RIGHT-OF-WAY LINE OF NW 57TH AVENUE; THENCE NORTH 00°08' 10" EAST, 641.49 FEET ALONG THE WEST LINE OF THE EAST 38 FEET OF LOT 9 OF SAID FRUITLAND TO THE NORTH LINE OF SAID LOT 9; THENCE NORTH 89° 03' 58" EAST, 366.68 FEET ALONG THE NORTH LINE OF LOT 9, 10 AND 11 OF FRUITLAND TO THE WEST RIGHT-OF-WAY LINE OF THE ABANDONED DES MOINES AND CENTRAL IOWA RAILROAD COMPANY RIGHT-OF-WAY; THENCE NORTH 24° 06' 35" WEST, 843.44 FEET ALONG THE WEST RIGHT-OF-WAY LINE OF THE ABANDONED DES MOINES AND CENTRAL IOWA RAILROAD COMPANY RIGHT-OF-WAY; THENCE NORTH 89°34' 49" WEST, 13.65 FEET ALONG THE WEST RIGHT-OF-WAY LINE OF THE ABANDONED DES MOINES AND CENTRAL IOWA RAILROAD COMPANY RIGHT-OF-WAY; THENCE NORTH 24° 07' 05" WEST, 439.12 FEET ALONG THE WEST RIGHT-OF-WAY LINE OF THE ABANDONED DES MOINES AND CENTRAL IOWA RAILROAD COMPANY RIGHT-OF-WAY; THENCE SOUTH 89°34' 49" EAST, 13.65 FEET ALONG THE WEST RIGHT-OF-WAY LINE OF THE ABANDONED DES MOINES AND CENTRAL IOWA RAILROAD COMPANY RIGHT-OF-WAY; THENCE NORTH 24°06' 54" WEST, 134.62 FEET ALONG THE WEST RIGHT-OF-WAY LINE OF THE ABANDONED DES MOINES AND CENTRAL IOWA RAILROAD COMPANY RIGHT-OF-WAY TO THE SOUTH RIGHT-OF-WAY LINE OF NORTHWEST 60TH AVENUE; THENCE NORTH 22°42' 08" WEST, 43.04 FEET TO THE NORTH RIGHT-OF-WAY LINE OF NORTHWEST 60TH AVENUE; THENCE SOUTH 88° 57' 45" WEST, 57.64 FEET ALONG THE NORTH RIGHT-OF-WAY LINE OF NORTHWEST 60TH AVENUE TO THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 7; THENCE NORTH 00° 05' 12" EAST, 618.45 FEET ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 7; THENCE SOUTH 90° 00' 00" EAST, 50.08 FEET TO THE NORTHWEST CORNER OF LOT 1 IN KEVIN PLACE PLAT FOUR; THENCE SOUTH 89° 59' 59" EAST, 15.03 FEET ALONG THE NORTH LINE OF SAID LOT 1; THENCE EASTERLY A DISTANCE OF 49.21 FEET ALONG THE ARC OF A TANGENT CURVE CONCAVE SOUTHERLY WITH A CENTRAL ANGLE OF 25° 00' 10", A RADIUS OF 112.77 FEET AND A CHORD THAT BEARS SOUTH 77° 30' 00" EAST, 48.82 FEET ALONG THE NORTH LINE OF SAID LOT 1; THENCE SOUTH 65° 00' 00" EAST, 17.22 FEET ALONG THE NORTH LINE OF SAID LOT 1; THENCE SOUTHEASTERLY A DISTANCE OF 49.21 FEET ALONG THE ARC OF A TANGENT CURVE CONCAVE NORTHEASTERLY WITH A CENTRAL ANGLE OF 25° 00' 08", A RADIUS OF 112.77 FEET AND A CHORD THAT BEARS SOUTH 77° 30' 00" EAST, 48.82 FEET ALONG THE NORTH LINE OF SAID LOT 1; THENCE NORTH 90° 00' 00" EAST, 147.60 FEET ALONG THE
NORTH LINE OF SAID LOT 1 TO THE WESTERNLY LINE OF SAID
LOT 1; THENCE SOUTH 00° 32' 09" EAST, 355.06 FEET ALONG
THE WESTERNLY LINE OF SAID LOT 1 TO THE NORTHERLY LINE
OF SAID LOT 1; THENCE NORTH 89° 55' 33" EAST, 291.64 FEET
ALONG THE NORTHERLY LINE OF SAID LOT 1 TO THE WEST
RIGHT-OF-WAY LINE OF NORTHWEST 56TH STREET; THENCE
NORTH 00° 19' 25" EAST, 194.58 FEET ALONG THE WEST
RIGHT-OF-WAY LINE OF NORTHWEST 56TH STREET; THENCE NORTH
88° 53' 24" EAST, 66.02 FEET TO THE SOUTHWEST CORNER OF
LOT 7 IN KEVIN PLACE AN OFFICIAL PLAT NOW INCLUDED IN
AND FORMING A PART OF THE CITY OF JOHNSTON, POLK
COUNTY, IOWA; THENCE NORTH 00°16' 19" EAST, 179.60 FEET
ALONG THE WEST LINE OF LOT 7 IN KEVIN PLACE TO THE
NORTHWEST CORNER OF SAID LOT 7; THENCE NORTH 88° 53'
58" EAST, 645.72 FEET ALONG THE NORTH LINE OF KEVIN
PLACE TO THE WEST RIGHT-OF-WAY LINE OF NORTHWEST
54TH COURT; THENCE NORTH 88°53' 58" EAST, 45.01 FEET TO
THE EAST RIGHT-OF-WAY LINE OF NORTHWEST 54TH COURT;
THENCE SOUTH 00° 16' 27" WEST, 90.08 FEET ALONG THE EAST
RIGHT-OF-WAY LINE OF NORTHWEST 54TH COURT TO THE
NORTHWEST CORNER OF LOT 11 IN KINSEY PLACE AN
OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF
THE CITY OF JOHNSTON, POLK COUNTY, IOWA; THENCE
NORTH 89° 10' 20" EAST, 641.84 FEET ALONG THE NORTH LINE
OF LOT 11 IN KINSEY PLACE TO THE NORTHEAST CORNER OF
LOT 11; THENCE SOUTH 00°21' 24" WEST, 1854.66 FEET ALONG
THE EAST LINE OF KINSEY PLACE, SERENO PLACE, AND,
FLORA BELL HEIGHTS TO THE NORTH LINE OF THE
SOUTHWEST QUARTER OF SAID SECTION 7; THENCE NORTH
89°10' 25" EAST, 662.15 FEET ALONG THE NORTH LINE OF THE
SOUTHWEST QUARTER OF SAID SECTION 7 TO THE CENTER
OF SAID SECTION 7; THENCE SOUTH 00°21' 21" WEST, 633.96
FEET ALONG THE EAST LINE OF LOT 17 IN FRUITLAND TO THE
NORTH RIGHT-OF-LINE OF NORTHWEST 57TH AVENUE;
THENCE SOUTH 01°41' 58" WEST, 60.20 FEET TO THE SOUTH
RIGHT-OF-LINE OF NORTHWEST 57TH AVENUE; THENCE
SOUTH 89° 13' 26" WEST, 329.98 FEET ALONG THE SOUTH
RIGHT-OF-LINE OF NORTHWEST 57TH AVENUE TO THE
NORTHWEST CORNER OF LOT 1 IN DEER MEADOWS AN
OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF
THE CITY OF JOHNSTON, POLK COUNTY, IOWA; THENCE
SOUTH 00° 19' 16" WEST, 629.57 FEET ALONG THE WEST LINE
OF DEER MEADOWS TO THE SOUTHWEST CORNER OF DEER
MEADOWS; THENCE NORTH 89° 07' 25" EAST, 198.68 FEET
ALONG THE SOUTH LINE OF DEER MEADOWS TO THE
NORTHWEST CORNER OF "LANGWITH COMMONS" AN
OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF
THE CITY OF JOHNSTON, POLK COUNTY, IOWA; THENCE
SOUTH 00° 24' 30" WEST, 494.54 FEET ALONG THE WEST LINE
OF "LANGWITH COMMONS" TO THE NORTHWEST CORNER OF
LOT 1 IN "LANGWITH COMMONS"; THENCE NORTH 89° 41' 17"
EAST, 132.61 FEET ALONG THE NORTH LINE OF LOT 1 IN "LANGWITH COMMONS" TO THE NORTHEAST CORNER OF LOT 1 IN "LANGWITH COMMONS"; THENCE NORTH 00º 18' 34" EAST, 128.04 FEET ALONG THE EAST LINE OF LOT 1 IN "LANGWITH COMMONS" TO THE NORTHWEST CORNER OF BRENNAN HEIGHTS AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF JOHNSTON, POLK COUNTY, IOWA; THENCE NORTH 88º48' 04" EAST, 585.70 FEET ALONG THE NORTH LINE OF BRENNAN HEIGHTS; THENCE SOUTH 04º 29' 33" WEST, 270.25 FEET ALONG THE EAST LINE OF THE WEST 145 FEET OF LOTS 6, 7, 8 AND 9 OF BRENNAN HEIGHTS TO THE NORTH RIGHT-OF-WAY LINE OF NORTHWEST 55TH AVENUE; THENCE SOUTH 04º29' 34" WEST, 45.21 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF NORTHWEST 55TH AVENUE; THENCE SOUTH 88º54' 53" WEST, 60.37 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF NORTHWEST 55TH AVENUE; THENCE SOUTH 00º20' 58" WEST, 137.84 FEET ALONG THE SOUTH LINE OF LOT 11 TO THE EAST LINE OF LOT 11 IN BRENNAN HEIGHTS; THENCE SOUTH 00º 20' 56" WEST, 137.84 FEET ALONG THE EAST LINE OF LOT 11 IN BRENNAN HEIGHTS TO THE SOUTH LINE OF LOT 11 IN BRENNAN HEIGHTS; THENCE SOUTH 88º59' 20" WEST, 337.97 FEET ALONG THE SOUTH LINE OF SAID LOT 2 TO THE SOUTH LINE OF LOT 2 IN BRENNAN HEIGHTS PLAT NO. 2 AN OFFICIAL PLAT NOW INCLUDED IN AND FORMING A PART OF THE CITY OF JOHNSTON, POLK COUNTY, IOWA; THENCE SOUTH 00º 20' 56" WEST, 301.77 FEET ALONG EAST LINE OF LOT 2 IN BRENNAN HEIGHTS PLAT NO. 2 TO THE SOUTH END OF SAID LOT 2; THENCE SOUTH 88º59' 20" WEST, 337.97 FEET ALONG THE SOUTH LINE OF SAID LOT 2, TO THE POINT OF BEGINNING, CONTAINING 9,228,364 SQUARE FEET OR 211.9 ACRES MORE OR LESS.

Connection fees are hereby established and shall be imposed upon owners of properties within the Benefitted District at the time of application to connect their property to said sewer facilities.

C. "Sanitary Sewer Utility" means and includes sanitary sewer trunk lines and sanitary sewer interceptors, sanitary sewer force mains, pumping stations and detention basins.

D. "Connection" means any act that results in a direct or indirect discharge into a city sewer utility, including but not limited to, the connection of a private sewer system to a lateral sewer or manhole or the connection of a lateral sewer serving a subdivision to a trunk sewer or manhole.

E. "Lot" means a parcel of land under one ownership. Two or more contiguous parcels under common ownership may be treated as one lot for the purposes of this Ordinance if the parcels bear common improvements or if the Council finds that the parcels have been assembled into a single unit for the purpose of use or development.
F. "Original Cost" means all costs incurred in the design, construction and financing of City sewer utilities necessary to provide sanitary sewer service to the East of Merle Hay Road and South of NW 62nd Avenue Sanitary Sewer Extension Connection Fee District, including but not limited to, the cost of labor, materials, engineering, fees, legal fees, closing costs, and interest from the date of construction to payment at the rate equal to the rate the City will pay for the bonds sold to finance the improvements.

2. Fee Schedule. Connection fees shall be imposed as follows:

A. Connection Fee. A connection fee is established for all existing and future connections for property directly adjoining and abutting the sanitary sewer facilities constructed in the Benefitted District according to the following schedule adjusted annually, which includes increases into which a reasonable amount of interest has been calculated from the date of construction of each particular phase of sanitary sewer facilities to the date of payment:

<table>
<thead>
<tr>
<th>Effective Date</th>
<th>Connection Fee ($/connection)*</th>
</tr>
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<tbody>
<tr>
<td>July 1, 2015</td>
<td>$ 2,731.00</td>
</tr>
<tr>
<td>July 1, 2016</td>
<td>$ 2,805.00**</td>
</tr>
<tr>
<td>July 1, 2017</td>
<td>$ 2,881.00</td>
</tr>
<tr>
<td>July 1, 2018</td>
<td>$ 2,959.00</td>
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<td>July 1, 2021</td>
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<td>$ 4,416.00</td>
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<td>July 1, 2034</td>
<td>$ 4,536.00</td>
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<tr>
<td>July 1, 2035</td>
<td>$ 4,659.00</td>
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</table>

* Connection fee is per side of sewer.

** An interest rate of 2.706211% is applied annually to the connection fee. The interest rate will not apply to the connection fee before the construction of the particular phase of the sanitary sewer facilities in the Benefitted District to which a property owner may connect has been completed. For example, if a particular phase of the sanitary sewer facilities is not constructed until 2017, then the connection fee in 2017 for property owners who may connect to that particular phase of the sanitary sewer facilities would be $2,731 and the fee schedule for those property owners would run from 2017 through 2037.
B. For those properties previously assessed for the 1995 Merle Hay Road Trunk Sewer improvements (see Exhibit B), the connection fee(s) will be reduced by the amount of the prior assessment.

3. Fee Outside District. The established connection fee shall apply to any property outside of the Benefitted District that uses or derives benefit from any of the sewer facilities constructed for the East of Merle Hay Road and South of NW 62nd Avenue Sanitary Sewer Extension Connection Fee District. The appropriate fee shall be imposed at the time of determination that a benefit is derived from the property.

4. Exception Within District. The established connection fee shall not apply to any properties within the Benefitted District that do not use any sanitary sewer facilities constructed for the East of Merle Hay Road and South of NW 62nd Avenue Sanitary Sewer Extension Connection Fee District.

5. Payment. The determination that a property is to be connected to the sewer facilities shall occur and the appropriate connection fee shall be paid prior to the time of release of a final plat for recordation or the issuance of a building or plumbing permit, whichever occurs first.

6. Existing Single Family Residence. Any single family residences within the Benefitted District, in existence or under construction upon the effective date of the ordinance, and located within the corporate limits of the City, are eligible for connection to the Sanitary Sewer Utility.

The owners of residences on parcels of less than 7,500 square feet located within the Benefitted District may connect such residences to the Sanitary Sewer Utility upon approval of their application for connection, payment of the connection fee for the parcel, and construction, at the owner’s expense, of appropriate connection structures, as determined necessary by the City.

Any single family residence existing or under construction upon the effective date of the ordinance codified in this section located upon a parcel in excess of 7,500 square feet may apply for connection upon division of said parcel into a single family residence parcel and a remainder parcel in the payment of a single connection fee. Any development of said parcel shall necessitate a revised application for connection and payment of the appropriate connection fee. For purposes of this section, subdivision of the property into a single family residence parcel and a remainder parcel shall only require a reasonably accurate graphical division of the property and shall not be construed to require a legal division of the property.

The owners of residences on parcels in excess of 7,500 square feet located within the Benefitted District may connect such residences to the Sanitary Sewer Utility upon approval of their application for connection, division of said parcel into a residence parcel and a remainder parcel, payment of the connection fee for the residence parcel, and construction, at the owner’s expense, of appropriate connection structures, as determined necessary by the City.

The connection fee for the remainder parcel shall be payable at such time as the remainder parcel shall be connected to the Sanitary Sewer Utility. A parcel may be divided once. For purposes of this section, division of the property into a residence parcel and a remainder parcel may be accomplished by submitting a drawing showing a graphical depiction of the two parcels including dimensions accurate to within a distance of one foot, a legal description of the entire parcel and a legal description of the residence parcel with such accuracy as to allow the City to determine a reasonable
description of the remainder parcel. For purposes of this section, the division of property does not require a subdivision of the property or a plat of survey.

7. Other Property. All other property located within the East of Merle Hay Road and South of NW 62nd Avenue Sanitary Sewer Extension Connection Fee District shall be eligible for connection to the Sanitary Sewer Utility upon approval of an application for connection by the owner thereof, as hereafter provided, and payment of the connection fee for such property, provided such property has been appropriately subdivided for development, and, where applicable, all sanitary sewer improvements necessary to serve said property have been constructed, at the owner’s expense, and accepted by the City. The maximum number of connection fees that must be paid for each lot subdivided for development will be determined based on the number of 9,500 SF lots capable of being subdivided from the property for development. A single connection fee will be charged per each connection, not to exceed the maximum number of 9,500 SF lots capable of being subdivided from the property.

8. Procedure. After adoption, publication and recording by the Clerk of a connection fee ordinance for the East of Merle Hay Road and South of NW 62nd Avenue Sanitary Sewer Extension Connection Fee District, all owners of those properties within the Benefited District whose properties are eligible for connection, and who propose to connect such properties directly or indirectly to the Sanitary Sewer Utility, shall make application to the City for such connection. The submittal of construction plans to the City for sanitary sewer improvements on property being subdivided for development shall constitute an application to the City. The sewer connection fee shall be due and payable at the time application is made to the City for connection to the Sanitary Sewer Utility. No connection shall be made to a Sanitary Sewer Utility until such application has been approved and until the required connection fee has been paid. The sewer connection fee shall be paid before the City will approve the final plat of property subject to the connection fee.

9. Unauthorized Connections Constitute Municipal Infraction. Any unauthorized connection(s) to the Sanitary Sewer Utility in the Benefitted District will constitute a municipal infraction pursuant to Chapter 3 of the City Code.

10. Disconnection of Unauthorized Connections. In the event any property owner connects his or her property within the Benefitted District to a Sanitary Sewer Utility without having made application therefor or without having received approval thereof or without having paid the required connection fee established by a connection fee ordinance, the City shall be entitled to disconnect such private sewer connection until such time as the property owner has made and received approval of his or her application, and/or has paid the required connection fee.

(Ord. 923 – June 15 Supp.)

[The next page is 575]
CHAPTER 102

STORM DRAINAGE SYSTEM

102.01 PURPOSE. The purpose of this chapter is to provide for the health, safety and general welfare by regulation of non-storm water discharges to the storm drainage system of the City, by establishing methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.

102.02 DEFINITIONS. For the purpose of this chapter, the following terms shall have or include the following meanings:

1. “Best management practices (BMPs)” means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.


3. “Construction activity” means activities subject to NPDES Construction Permits, including sites with disturbance of one acre or more. Such activities include but are not limited to excavation, clearing, grubbing, grading and demolition.

4. “Hazardous materials” means any material, including any substance, waste or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

5. “Illegal discharge” means any direct or indirect non-storm water discharge to the storm drain system, except as permitted by this chapter.

6. “Illicit connection” means either of the following: (i) any drain or conveyance, whether on the surface or subsurfaces, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been
previously allowed, permitted, or approved by an authorized employee of the City; or (ii) any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized employee of the City.

7. “Industrial activity” means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).

8. “National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit” means a permit issued by EPA – or by a state under authority delegated pursuant to 33 USC §1342(b) – that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual group, or general area-wide basis.

9. “Non-storm water discharge” means any discharge to the storm drain system that is not composed entirely of storm water.

10. “Person” means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting either as the owner or as the owner’s agent.

11. “Pollutant” means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes and solvents, oil and other automotive fluids, non-hazardous liquid and solid wastes and yard wastes, refuse, rubbish, garbage, litter, or other discarded or abandoned objects, obstructions and accumulations so that same may cause or contribute to pollution, floatables, pesticides, herbicides and fertilizers, hazardous substances and wastes, sewage, fecal coliform and pathogens, dissolved and particulate metals, animal wastes, wastes and residues that result from constructing a building or structure, and noxious or offensive matter of any kind.

12. “Premises” means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

13. “Storm drainage system” means publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

14. “Storm water” means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation and resulting from such precipitation.

15. “Storm Water Pollution Prevention Plan (SWPPP)” means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the maximum extent practicable.

16. “Wastewater” means any water or other liquid, other than uncontaminated storm water, discharged from a facility.

102.03 PROHIBITION OF ILLEGAL DISCHARGES. No person shall discharge or cause to be discharged into the City storm drain system or watercourses of the City, any materials, including but not limited to pollutants or waters containing any pollutants that cause
or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by the system: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, natural riparian habitat or wet-land flows, swimming pool (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing pollutants.

2. Discharges specified in writing by authorized employees of the City as being necessary to protect public health and safety.

3. Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement employee of the City prior to the time of the test.

4. The prohibition does not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

102.04 PROHIBITION OF ILLICIT CONNECTIONS. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this section if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

102.05 SUSPENSION DUE TO ILLICIT DISCHARGES IN EMERGENCY SITUATIONS. The City employee authorized to enforce this chapter may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to persons.

102.06 SUSPENSION DUE TO THE DETECTION OF ILLICIT DISCHARGES. Any person discharging to the MS4 in violation of this chapter may have said person’s MS4 access terminated if such termination would abate or reduce an illicit discharge. The City employee authorized to enforce this chapter will notify a violator of the proposed termination of its MS4 access. The violator may appeal under Section 102.14 of this chapter. A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this chapter without the prior approval of the City employee authorized to enforce this chapter.

102.07 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall
comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City employee authorized for enforcement of this chapter prior to the allowing of discharges to the MS4.

102.08 MONITORING ACCESS. The City employee authorized to enforce this chapter shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as is necessary to determine compliance with this section. If a discharger has security measures that require identification and clearance before entry to its premises, the discharger shall make the necessary arrangements to allow access to the City employee authorized to enforce this section. By way of specification but not limitation:

1. Facility operators shall allow the authorized City enforcement employee ready access to all parts of the premises for purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by State and Federal law.

2. The authorized City enforcement employee shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility’s storm water discharge.

3. The authorized City enforcement employee has the right to require the discharger to install monitoring equipment as necessary. The facility’s sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

4. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral order of the authorized City enforcement employee and shall not be replaced. The costs of clearing such access shall be borne by the operator.

5. Unreasonable delays in allowing the authorized City enforcement employee access to a permitted facility is a violation of a storm water discharge permit and of this section. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized City enforcement employee reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.

6. If the authorized City enforcement employee has been refused access to any part of the premises from which storm water is discharged, and said employee is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized City enforcement employee may seek issuance of a search warrant from any court of competent jurisdiction.

102.09 USE OF BEST MANAGEMENT PRACTICE. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed best management practices.
These BMPs shall be part of a storm water pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

102.10 WATERCOURSE PROTECTION. Every person owning property through which a watercourse passes, or such person’s lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate, or significantly alter the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

102.11 NOTIFICATION REQUIREMENT. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized City enforcement employee in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the authorized City enforcement employee within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

102.12 NOTICE OF VIOLATION. Whenever the City’s authorized enforcement employee finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices, or operations shall cease and desist;
4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
5. Payment of the City’s remediation costs; and
6. The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property are required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator, and the costs paid by the violator within the time specified. Failure by a violator to meet a requirement as aforesaid within the time set in the said notice shall constitute a violation of this chapter.
102.13 VIOLATIONS AS A NUISANCE. In addition to the enforcement processes and penalties provided, if any condition caused or permitted to exist in violation of any of the provisions of this chapter is found and declared to be injurious to public health, safety, and welfare; this condition may be declared and deemed a nuisance, and may be abated or restored at the violator’s expense and a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken, or to recoup the City’s costs incurred for remediation thereof, in accordance with Chapter 50 of this Code of Ordinances, provisions of Sections 364.12(3) and (4), Code of Iowa, and other laws of the State of Iowa.

102.14 APPEAL.

1. Any person aggrieved by an order, requirement, decision or determination of the building official in the enforcement of this chapter may, within thirty (30) calendar days thereof, appeal such action to the Board of Appeals by filing with the Board of Appeals an appeal specifying the grounds thereof. The building official or other designated official of the City shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from is taken.

2. Before an appeal is filed with the Board of Appeals, the appellant shall pay to the City a fee in accordance with a duly approved resolution.

3. Upon receipt of such an appeal, and payment of the fee, the Board of Appeals or its designated representative shall establish a date, time and place for a public hearing on the appeal and shall cause the preparation, publication, posting and distribution of a public notice of said hearing.

4. The public hearing shall be attended by the appellant or his agent, and by the building official or other designated official of the City.

5. The Board of Appeals may modify, reverse or affirm, wholly or partly, the order, requirement, decision or determination appealed from. It shall not have the power to grant exceptions or variances to the requirements of this chapter.

6. A majority vote of the members of the Board of Appeals present at the hearing shall be necessary to reverse any order, requirement, decision or determination appealed from.

102.15 RESPONSIBILITY. The failure of City officials to observe or foresee hazardous or unsightly conditions, or to impose other additional conditions or requirements on approved applicants or permit holders, or to deny or revoke a permit or approval, or to stop work in violation of this chapter, shall not relieve the property owners, approved applicants or permit holders of the consequences of their actions or inactions or result in the City, its officers or agents, being liable therefor, or on account thereof.

102.16 VIOLATION. Each day that a violation of the provisions of this chapter occurs or continues constitutes a repeat offense. Any person that violates a provision of this chapter, after having previously been found guilty of violating the same provision at the same location or at a different location, shall be guilty of a repeat offense. Seeking a civil penalty as authorized in this section does not preclude the City from seeking alternative relief, including an order for abatement or injunctive relief, from the court in the same action or as a separate action.

[The next page is 585]
# CHAPTER 103

**STORMWATER MANAGEMENT UTILITY**

<table>
<thead>
<tr>
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## 103.01 DEFINITIONS

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

1. “Bonds” means revenue bonds, notes, loans or any other debt obligations issued or incurred to finance the costs of construction.

2. “Customers of stormwater utility” include all persons, properties, and entities served by and/or benefiting from the utility's acquisition, management, maintenance, extension and improvement of the public stormwater management systems and facilities.

3. “Director” means the Public Works Director as director of the stormwater management utility.

4. “Equivalent residential unit” or “ERU” means the average impervious area of residential developed property per dwelling unit located within the City as periodically determined and established as provided in this chapter, which has been determined by the City to be 4,000 square feet of impervious surface area.

5. “Operating budget” means the annual operating budget for the stormwater management utility adopted by the City Council for the succeeding fiscal year.

6. “Revenues” means all rates, fees, assessments, rentals or other charges or other income received by the utility, in connection with the management and operation of the system, including amounts received from the investment or deposit of moneys in any fund or account and any amounts contributed by the City, all as calculated in accordance with sound accounting practice.

7. “Stormwater drainage system” means the system of publicly or privately owned or operated rivers, creeks, ditches, drainage channels, pipes, basins, street gutters, and lakes within the City through which or into which stormwater runoff, surface water, or subsurface water is conveyed or deposited.

8. “Stormwater management utility” or “utility” means the enterprise fund utility created by this chapter to operate, maintain and improve the system and for such other purposes as stated in this chapter.

9. “User” means any person owning, operating, or otherwise responsible for property within the City which directly or indirectly discharges stormwater or surface or subsurface waters to any portion of the stormwater management system, including direct or indirect discharges to the City's stormwater drainage system, or which is directly or indirectly protected by the City's flood protection system or stormwater...
The term “user” means any person responsible for the direct or indirect discharge of stormwater or surface or subsurface waters to the City's stormwater drainage system.

103.02 DECLARATION OF PURPOSE; ESTABLISHMENT OF DISTRICT.

1. The City Council finds, determines, and declares it to be conducive to the health, welfare, safety and convenience of the City and its residents that a stormwater management utility district be established within the City. Consequently, pursuant to I.C. §384.84(1), a stormwater management utility district, to be known as The Johnston Stormwater Management Utility, is established, and it is ordained and declared that the property located within the City limits of the City of Johnston shall be and constitute the stormwater management utility district, and that the utility shall comprise and include elements of the City's stormwater drainage and flood protection systems which provide for the collection, treatment and disposal of stormwater, surface water, and groundwater. It is further found, determined, and declared that the elements of the stormwater management utility are of benefit and provide services to all real properties within the incorporated City limits, including property not directly served by the stormwater drainage system, and that such benefits and services may include but are not limited to the provision of adequate systems of collection, conveyance, detention, treatment and release of stormwater; the reduction of hazard to property and life resulting from stormwater runoff and flooding; improvement in general health and welfare through reduction of undesirable stormwater conditions and flooding; and improvement to the water quality in the stormwater and surface water system and its receiving waters.

2. It is further determined and declared to be necessary and conducive to the protection of the public health, welfare, safety and convenience of the City and its residents that charges be levied upon and collected from the owners or occupants of all lots, parcels of real estate, and buildings that discharge stormwater or surface or subsurface waters, directly or indirectly, to the City stormwater drainage system, and that the proceeds of such charges so derived be used for the purposes of operation, maintenance, repair, replacement and debt service for construction of the stormwater drainage and flood protection improvements comprising the stormwater management utility.

103.03 POWERS, DUTIES AND RESPONSIBILITIES. The stormwater management utility shall have the following powers, duties, and responsibilities:

1. Prepare ordinances as needed to implement this chapter and forward the ordinances to the City Council for consideration and adoption, and adopt such regulations and procedures as are required to implement this chapter and carry out its duties and responsibilities.

2. Administer the acquisition, design, construction, maintenance and operation of the utility system, including capital improvements designated in the comprehensive drainage plan.

3. Administer and enforce this chapter and all ordinances, regulations and procedures adopted relating to the design, construction, maintenance, operation and alteration of the utility system, including but not limited to the quantity, quality and/or velocity of the stormwater conveyed thereby.
4. Inspect private systems as necessary to determine the compliance of such systems with this chapter and any ordinances or regulations adopted pursuant to this chapter.

5. Prepare and revise a comprehensive drainage and flood protection plan for periodic review and adoption by the City Council.

6. Review plans, approve or deny, inspect and accept extensions to the stormwater drainage system.

7. Establish and enforce regulations to protect and maintain water quality within the system in compliance with water quality standards established by state, regional and/or federal agencies as adopted or amended.

8. Annually analyze the cost of services and benefits provided, and the system and structure of fees, charges, fines and other revenues of the utility, and make recommendations regarding adjustments to such fees, charges, fines and other revenues.

9. Prepare an annual operating budget for the utility and make recommendations regarding the financing of the cost of extending and replacing the system.

10. Administer a homeowner grant program providing funding assistance for stormwater management improvements on single family residential lots.

103.04 ORGANIZATION. The City Council shall be the governing body of the stormwater management utility. The stormwater management utility shall be under the direction, management and control of the Public Works Director who shall function as its director. In that capacity, the director shall supervise the day-to-day operation of the stormwater management utility, shall enforce this chapter and the provisions of all ordinances and regulations adopted pursuant to this chapter and shall carry out the policy directives of the City Council acting in its role as governing body of the stormwater management utility.

103.05 STORMWATER SERVICE CHARGES REQUIRED. Every customer whose premises is served by a connection with the stormwater management system and facilities of the City of Johnston, either directly or indirectly, shall pay to the City stormwater service charges hereinafter established and specified for the purpose of contributing towards the costs of construction, maintenance and operation of the stormwater management system and facilities and at least sufficient to pay the principal and interest related to bonds issued for the purpose of financing all or part of those costs, and sufficient to comply with any covenants or conditions associated with any such bonds so issued.

103.06 EFFECTIVE DATE OF STORMWATER SERVICE CHARGES. Stormwater service charges shall accrue beginning July 1, 2012, and shall be billed monthly thereafter to all customers. The City will conduct a review of the program by July 1, 2022, as provided for in section 103.12.

103.07 BASE RATE.

1. Except as hereinafter noted, each customer whose property lies within the corporate limits of the City shall pay to the City, as a part of the customers combined service account with the Johnston Utility Billing Department, at the same time payment for other City utilities are made, the following charges per equivalent residential unit (ERU) associated with the customer’s property:
A. Undeveloped. A flat storm sewer availability charge at the rate of $0.00 per month.

B. Single-Family and Townhome Residential. $4.55 per ERU per month up to a maximum of 4 ERUs.

C. Commercial/Industrial/Multi-family. $4.55 per ERU per month up to a maximum of 40 ERUs.

2. The monthly rate may be adjusted as a result of the annual review of rates as detailed in Section 103.11 of this chapter; the Council may choose to adjust the monthly ERU rate as necessary. Such rate adjustments shall be approved by resolution of the City Council.

3. The number of equivalent residential units (ERU) on each property shall be calculated by the Community Development Department based on the most recent aerial photograph available to the City of Johnston and/or impervious surface data as prepared by a licensed engineer or surveyor for the property. Stormwater fee billing will begin upon water meter installation.

103.08 RATE APPEALS. City staff will review all rate and ERU inquiries from customers to ensure the ERU has been correctly applied to a property. Following this review, any customer who believes the provisions of this chapter have been applied in error may appeal in the following manner:

1. An appeal must be filed in writing with the City of Johnston City Administrator and include all necessary information to support the request for an appeal.

2. If it is deemed necessary, the appeal shall include a survey prepared by a registered Iowa land surveyor or professional engineer containing information on the total property area, the impervious surface area and any other features or conditions which influence the hydrologic response of the property to rainfall events.

3. Using the information provided by the appellant, the City Administrator shall conduct a technical review of the conditions on the property and respond to the appeal in writing within thirty (30) days.

4. In response to an appeal, the City Administrator may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this chapter.

5. A decision of the City Administrator which is adverse to an appellant may be further appealed to the City Council within thirty (30) days of receipt of notice of the adverse decision. Notice of the appeal shall be served on the City Council by the appellant, stating the grounds for the appeal. The City Council shall schedule a public hearing within thirty (30) days. All decisions of the City Council shall be served on the appellant by registered mail, sent to the billing address of the appellant.

6. All decisions of the City Council shall be final.

103.09 EXEMPTION FROM FEES; SPECIAL CONDITIONS. The stormwater management fee shall not apply:

1. If a written request is made, in special conditions, the City Administrator of the City of Johnston may grant fee payment and collection variances after determining that granting the variance would be in the City's best interest, will improve efficiency,
safety and is practical. Upon the granting of any variance, the City Administrator shall file notice with the City Council giving reason(s) for the variance.

2. The fee established in subsection 103.07(1)(C) for commercial/industrial/multifamily recognizes that these particular types of development are required to provide stormwater detention onsite. Having such stormwater detention, therefore, is not a basis for exemption. However, property owners may qualify for a reduction to their ERU provided they exceed the stormwater management requirements as determined by the Stormwater Utility Credit Policy as adopted by resolution of the City Council.

3. To properties owned by the United States, or any publicly owned rights of way used for the purposes of streets, sidewalks, trails or other public utilities.

103.10 BILLING FOR STORMWATER SERVICE. All stormwater management fees 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. Water 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 92.06 relating to lien notices shall also apply in the event of a delinquent account.

103.11 ANNUAL REVIEW OF RATES. The City will review the stormwater service charges at least yearly and revise the stormwater service charges as necessary to ensure that such charges as herein established and specified generate adequate revenues to pay the costs of maintenance and operation (including replacement and debt service) of a stormwater management system and facilities and that the stormwater service charges continue to provide for the proportional distribution of maintenance and operation costs (including replacement costs and debt service) for a stormwater management system and facilities among the users and user classes. The liability of a stormwater service user to pay for charges as provided in this chapter shall not be contingent, however, upon any such review or revision.

103.12 REVIEW OF STORMWATER UTILITY PROGRAM. No later than July 1, 2022, the City shall conduct a thorough analysis and reevaluation of the stormwater service charge and stormwater management system and facilities to ensure that such charges as herein established and specified revenues are adequate and necessary for the annual ongoing needs and expenses of the utility including debt service. This utility and collection of stormwater service charges shall remain in place so long as there are outstanding debt obligations.

(Ch. 103 – Ord. 852 – Aug. 12 Supp.)
CHAPTER 105

SOLID WASTE CONTROL

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. “Collector” means any person authorized to gather solid waste from public and private places.

2. “Discard” means to place, cause to be placed, throw, deposit or drop.

   (Code of Iowa, Sec. 455B.361[2])

3. “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.

4. “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)

5. “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])

6. “Litter” means any garbage, rubbish, trash, refuse, waste materials or debris.

   (Code of Iowa, Sec. 455B.361[1])

7. “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.

8. “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)
“Residential premises” means a single-family dwelling and a two-family dwelling.

“Residential waste” means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

“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)

“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)

“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 of the State Department of Natural Resources.

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

“Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

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

**105.03 SANITARY DISPOSAL REQUIRED.** It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

**105.04 HEALTH AND FIRE HAZARD.** It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

**105.05 OPEN BURNING.**

1. **Prohibited.** It is unlawful for any person to allow, cause or permit the open burning of any paper, cardboard, cartons, furniture, waste, garbage, tires or any other non-organic material within the City.

2. **Restricted.** It is unlawful for any person to allow, cause or permit the open burning of any leaves, grass clippings, pine needles, garden waste and other similar organic material within the City except for the open burning of brush, sticks, branches, trees, and shrubs (but no garden waste) on single-family and two-family residential properties provided such burning is conducted in accordance with the following:
CHAPTER 105  SOLID WASTE CONTROL

A. The burning shall not be closer than fifty feet to an adjoining or neighboring residential dwelling.
B. No burning is allowed in the public right-of-way or in any public easement area.
C. The property owner/tenant must be present at all times during the burning.

3. Exemptions. The provisions of this section do not apply to the following:
A. The burning of untreated wood or charcoal in outdoor grills, fireplaces and chimneys for the preparation of food or for social activities. It is unlawful to use such devices to burn any other type of material.
B. The controlled burning of untreated wood or coal for enjoyment of fraternal, religious, educational or other similar organizations when application for exemption is made upon forms approved by the City Administrator and approved by the Council.
C. The disposal by open burning of waste occurring as a result of a severe storm or other community disaster declared to be an emergency by resolution of the Council. The type of waste, the manner in which it shall be burned and the period of time for such burning shall be specified in the resolution.
D. Prairie maintenance (reestablishment and creation) and agricultural field maintenance, provided such burning is conducted in accordance with the rules, regulations and public notification requirements established by Polk County. The City and Johnston Fire District shall be provided a copy of the approved Polk County permit prior to the burning, if a permit is required.
E. Incinerators authorized by the Polk County Board of Health and complying with the Board’s rules and regulations.

4. Other. No person shall allow, cause or permit any other type of open burning except as provided by the Polk County rules and regulations.

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, burned on the premises in accordance with Section 105.05(2) or placed in containers and set out for collection in accordance with the procedure established by the collector. 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

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of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

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 of the State Department of Natural Resources. 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, 567-102.13[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 sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

   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 their contracted collector.

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 not be so placed more than twenty-four (24) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

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.
CHAPTER 106

COLLECTION OF SOLID WASTE

106.01  COLLECTION SERVICE. The City shall provide by contract for the collection of solid waste, except bulky rubbish as provided in Section 106.05, from single and two family residential premises. The City may also provide collection of solid waste from owner-occupied multi-family townhome or condominium (as defined by Section 165.04 of the zoning code) associations if they make a request in writing, all units participate and are billed for the service and it is determined that the collection vehicles have adequate access to provide curbside collection. The owners or operators of multiple-family dwellings, commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

(Ord. 857 – Aug. 12 Supp.)

106.02  COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[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 the terms established by the collector.

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 single family and two family 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 RECYCLING PROGRAM. The City shall provide for the collection of recyclable material; from single and two family residential premises through the Metro Waste Authority (MWA) Single Stream Recycling Program. The owner or operators of multiple-family dwellings shall provide facilities for the collection of recyclable material generated on the premises, which may include participation in the MWA program. Persons participating in the recycling program shall prepare recyclable material for collection in accordance with the rules and regulations as established by the Metro Waste Authority and the collector. The City Council shall adopt the fees for the recycling program by resolution.

106.09 BENEFITTED PROPERTIES. The collection and disposal of solid waste and recycling as provided by this chapter are declared to be beneficial to the property served or eligible to be served and all benefitted properties shall be charged for collection services in accordance with section 106.12.

106.10 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 and recycling collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and may be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

106.11 PRIVATE COLLECTOR’S PERMIT. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than waste produced by that person within the City without first obtaining from the City an annual permit in accordance with the following:

1. Application. Application for a solid waste collector’s permit shall be made to the Clerk and provide the following:
   A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.
   B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.
   C. Collection Program. A complete description of the type of waste to be hauled, frequency, routes and method of collection and transportation to be used.
   D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.
2. Insurance. No collector’s permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the City evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

   Bodily Injury: ...............$500,000 per person.
   $500,000 per occurrence.

   Property Damage: ..........$500,000.

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the City of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action. All insurance coverage and limits shall meet those of all state and federal requirements, if greater.

3. Permit Fee. The fee shall be established by resolution of the City Council.

4. Permit Issued. If the Council upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the requested permit shall be issued to be effective for a period of one year from the date approved.

5. Permit Renewal. An annual permit may be renewed simply upon payment of the required fee, provided the applicant agrees to continue to operate in substantially the same manner as provided in the original application and provided the applicant furnishes the Clerk with a current listing of vehicles, equipment and facilities in use.

6. Permit Not Transferable. No permit authorized by this chapter may be transferred to another person.

7. Permit Revocation. Failure on the part of any such permittee to collect, transport, and dispose solid waste in accordance with laws and ordinances of the City shall be cause for the Council on reasonable notice and hearing to revoke such permit. In the event a permit is revoked by the Council, such permittee may be ineligible for reinstatement or renewal thereof, or for a new permit, for a period of sixty (60) days from the date of such revocation and thereafter only upon posting bond with the City in an amount sufficient to hold the City harmless from any and all claims which might be expected from the Metro Waste Authority for revenue loss which would follow from a future violation of said delivery requirements over a sixty (60) day period, based upon the volume of solid waste proposed to be handled by the applicant for the sixty (60) day period following the issuance of such new permit.

8. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting solid waste accumulating upon premises owned, occupied or used by said owner, provided such refuse is disposed of properly in an approved sanitary disposal project.

9. Grading or Excavation Excepted. No permit shall be required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities; however, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.

(Ord. 857 – Aug. 12 Supp.)
106.12 CHARGES FOR COLLECTION SERVICES. Fees for solid waste collection services shall be established by resolution of the City Council.  

(Ord. 857 – Aug. 12 Supp.)
CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Grant of Franchise

There is hereby granted to MidAmerican Energy Company, an Iowa corporation, its successors and assigns ("Company"), the nonexclusive right, franchise, and privilege for a period of twenty-five (25) years from and after the effective date of the ordinance codified in this chapter,† to acquire, construct, erect, operate, and maintain in the City, as provided herein, the necessary facilities for the distribution, transmission, and sale of natural gas for public and private use, and to construct and maintain over, upon, across and under the streets, highways, avenues, alleys, bridges and public places the necessary facilities, fixtures and equipment for such purposes; provided, however, based on provisions of Section 110.09 hereof, the franchise may, at the option of the City, be terminated on its fifth or tenth anniversary.

110.02 Competitive Services

Nothing in this agreement shall be construed or interpreted to limit or prohibit the City, residents or businesses of Johnston from participating in or enjoying any of the benefits and protections of a restructured natural gas utility industry to the extent that such opportunities, benefits and protections are made available generally to consumers of competitive natural gas services under State and Federal rules, regulations and law.

110.03 Maintenance of Facilities

The facilities, fixtures, and equipment for the distribution, transmission, and sale of natural gas within the City shall be placed and maintained so as not to unnecessarily or unreasonably interfere with travel on the streets, avenues, alleys, bridges, and public places in the City, nor shall such facilities, fixtures, and equipment unnecessarily or unreasonably interfere with the proper use of the same, including ordinary drainage, or with the sewer or water systems, underground pipe, or other property of the City. In the event that facilities, fixtures, and equipment of the Company located within the public right-of-way must be relocated because of paving, road construction, or road reconstruction, sewer or water systems construction or reconstruction, or the construction or reconstruction of public drainage systems or similar public works, such relocation, at the written request of the City, shall be timely completed by the Company at its cost. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation. The Company shall obtain a permit for the construction of facilities, fixtures, and equipment within the public right-of-way. The City shall advise the Company of any conflicts such construction may have with planned or anticipated public improvements, but failure of the City to so advise the Company will not relieve the Company of its obligations under this section. Work that does not require cutting or removing of pavement or sidewalks located within the public right-of-way, and is

† EDITOR’S NOTE: Ordinance No. 584, adopting a natural gas franchise for the City, was passed and adopted on September 5, 2000.
classified as routine service and maintenance work, new or replacement services to residential and commercial buildings and emergency repairs are exempted from the permitting requirements.

110.04 LOCATION. The City reserves to itself the right to determine upon which side of a street new Company’s facilities, fixtures, and equipment shall be located, but shall only reserve this right in those instances where there is sufficient right-of-way to utilize either side of the paved or otherwise maintained street surface. The City also reserves the right to determine on which side of a street replacement facilities and fixtures shall be located when said replacement is in conjunction with public works projects referenced in Section 110.03 of this chapter. If it is determined that there is insufficient right-of-way, then the Company will be responsible for obtaining necessary access. The Company shall remove its above ground facilities, fixtures and equipment as they are abandoned. Any below ground abandoned facilities, fixtures, and equipment that become in conflict with public improvements or private improvements approved by the City, excluding equipment or services that were customer owned or installed, shall be removed at the Company’s expense.

110.05 RIGHT OF CITY TO REGULATE USE OF PUBLIC PROPERTY. The Company agrees for and on behalf of itself, its lessees, successors, and assigns that it shall at all times be subject to all rights, power and authority now or hereafter possessed by the City, and all subsequent amendments thereto, to regulate the manner in which the Company shall use the streets, alleys, avenues, bridges, and public places of the City, when not inconsistent with the authority and rights granted Company in this chapter and the rules and regulations of the Iowa Utilities Board.

110.06 INDEMNIFICATION OF CITY. The Company shall indemnify and hold the City harmless for all loss, claims, or damages on account of injury to or death of persons, or injury to property arising from the Company’s acquisition, construction, erection, maintenance, or operations of its facilities, fixtures or equipment within the City. The Company shall, at its own expense, defend any action at law, in equity, or in an administrative proceedings brought against the City on account of Company’s acquisition, construction, erection, maintenance, or operation of its facilities, fixtures, or equipment within the City. The Company shall not be obligated, however, to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

110.07 EXTENSION OF SYSTEM. The Company is authorized and shall extend its mains and pipes and operate and maintain its gas distribution system in accordance with the rules and regulations of the Iowa Utilities Board or its successors.

110.08 EMINENT DOMAIN. For the term of the franchise the Company is granted the right of eminent domain, the exercise of which is subject to the sole discretion and approval of the Council upon application by the Company.

110.09 TERMINATION. Section 110.01 of this chapter notwithstanding, the City may terminate this franchise agreement on the fifth anniversary of the effective date of the franchise by giving the Company notice in writing of its intent to terminate the franchise agreement at least one year prior to such anniversary. Prior to terminating the franchise, the City shall conduct a public hearing and shall at three separate regular Council meetings pass and adopt an ordinance to terminate the franchise. Failure to give such notice abrogates the right of the City to terminate the franchise agreement on the fifth anniversary date, provided, however, that in the event notice is given, public hearing conducted and ordinance passed and
adopted, the franchise agreement shall terminate on the fifth anniversary unless the parties agree to extend the term of the franchise agreement on mutually satisfactory terms and conditions. The City may terminate the franchise agreement on the tenth anniversary of the effective date of the agreement by giving the Company notice in writing of its intent to terminate the franchise agreement at least one year prior to such anniversary. Prior to terminating the franchise the City shall conduct a public hearing and shall at three separate regular Council meetings pass and adopt an ordinance to terminate the franchise. Failure to give such notice abrogates the right of the City to terminate the franchise agreement on the tenth anniversary date, provided, however, that in the event notice is given, public hearing conducted and ordinance passed and adopted, the franchise shall terminate on the tenth anniversary unless the parties agree to extend the term of the franchise agreement on mutually satisfactory terms and conditions.

110.10 TERMINATION ON DEFAULT. If the Company shall be in default in the performance of any of the terms and conditions of this chapter and shall continue in default for more than sixty (60) days after receiving notice from the City of such default, and the default is not contested by the Company, the City may, following a public hearing, by ordinance passed and adopted at three separate regular Council meetings, terminate all rights granted under this chapter to the Company unless MidAmerican Energy Company has made substantial progress toward curing the default. The Company shall not be considered to have defaulted on any terms or conditions of this chapter if the alleged default is the result of the actions of a third party.
CHAPTER 111

ELECTRIC FRANCHISE

111.01 GRANT OF FRANCHISE. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, its successors and assigns (“Company”), the nonexclusive right, franchise, and privilege for a period of twenty-five (25) years from and after the effective date of the ordinance codified in this chapter†, to acquire, construct, erect, operate, and maintain in the City, as provided herein, the necessary facilities for the distribution, transmission, and sale of electric energy for public and private use, and to construct and maintain over, upon, across and under the streets, highways, avenues, alleys, bridges and public places the necessary facilities, fixtures and equipment for such purposes; provided, however, based on provisions of Section 111.11 of this chapter, the franchise, at the option of the City, may be terminated on its fifth or tenth anniversary.

111.02 COMPETITIVE ELECTRIC SERVICES. Nothing in this agreement shall be construed or interpreted to limit or prohibit the City, residents or businesses of the City from participating in or enjoying any benefits and protections of a restructured electric utility industry to the extent that such opportunities, benefits and protections are made available generally to consumers of competitive electric services under State and Federal rules, regulations and laws.

111.03 MAINTENANCE OF FACILITIES. The facilities, fixtures, and equipment for the distribution, transmission, and sale of electric energy within the City shall be placed and maintained so as not to unnecessarily or unreasonably interfere with travel on the streets, highways, avenues, alleys, bridges, and public places in the City, nor shall such facilities, fixtures, and equipment unnecessarily or unreasonably interfere with the proper use of the same, including ordinary drainage, or with the sewer or water systems, underground pipe, or other property of the City. In the event that facilities, fixtures, and equipment of the Company located within the public right-of-way must be relocated because of paving, road construction, or road reconstruction, sewer or water systems construction or reconstruction, or the construction or reconstruction of public drainage systems or similar public works, such relocation, at the written request of the City, shall be timely completed by the Company at its cost. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation. The Company shall obtain a permit for the construction of facilities, fixtures, and equipment within the public right-of-way. The City shall advise the Company of any conflicts such construction may have with planned or anticipated public improvements, but failure of the City to so advise the Company will not relieve the Company of its obligations under this section. Work that does

† EDITOR’S NOTE: Ordinance No. 583, adopting an electric franchise for the City, was passed and adopted on September 5, 2000.
not require cutting or removing of pavement or sidewalks located within the public right-of-way, and is classified as routine service or maintenance work, replacement services and emergency repairs are exempted from the permitting requirements.

111.04 LOCATION. The City reserves to itself the right to determine upon which side of a street new Company’s facilities, fixtures, and equipment shall be located, but shall only reserve this right in those instances where there is sufficient right-of-way to utilize either side of the paved or otherwise maintained street surface. The City also reserves the right to determine on which side of a street replacement facilities and fixtures shall be located when said replacement is in conjunction with public works projects referenced in Section 111.03 of this chapter. If the City determines that there is insufficient right-of-way, then the Company will be responsible for obtaining necessary access. The Company shall remove its above ground facilities, fixtures and equipment as they are abandoned. Any below ground abandoned facilities, fixtures, and equipment that become in conflict with public improvements or private improvements approved by the City, excluding equipment or services that were customer owned or installed, shall be removed at the Company’s expense.

111.05 RIGHT OF CITY TO REGULATE USE OF PUBLIC PROPERTY. The Company agrees for and on behalf of itself, its lessees, successors, and assigns that it shall at all times be subject to all rights, power and authority now or hereafter possessed by the City, and all subsequent amendments thereto, to regulate the manner in which the Company shall use the streets, alleys, avenues, bridges, and public places of the City, when not inconsistent with the authority and rights granted Company in this chapter and the rules and regulations of the Iowa Utilities Board.

111.06 INDEMNIFICATION OF CITY. The Company shall indemnify and hold the City harmless for all loss, claims, or damages on account of injury to or death of persons, or injury to property arising from the Company’s acquisition, construction, erection, maintenance, or operations of its facilities, fixtures or equipment within the City. The Company shall, at its own expense, defend any action at law, in equity, or in an administrative proceedings brought against the City on account of Company’s acquisition, construction, erection, maintenance, or operation of its facilities, fixtures, or equipment within the City. The Company shall not be obligated, however, to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

111.07 STANDARDS OF OPERATION. In addition to the obligations of the Company under this franchise, the Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

111.08 LOCATION OF ELECTRIC LINES. In the event of any construction or reconstruction of any electric lines within the City, the Company shall consider all options for the construction or reconstruction. The options shall include relocation, overhead construction, underground construction and other options that may apply, provided that the Company shall comply with City subdivision ordinances which are not in conflict with Iowa Utilities Board rules and regulations or State and Federal law, requiring underground construction of utilities in new subdivisions with costs to be governed by Company tariffs in effect at the time of construction.

111.09 TRIMMING TREES. The Company shall have the right to prune or remove at Company expense any trees extending into any street, alley or public ground as reasonably
necessary to maintain electric safety and reliability and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company.

111.10 **EMINENT DOMAIN.** For the term of the franchise the Company is granted the right of eminent domain, the exercise of which is subject to the sole discretion and approval of the Council upon application by the Company.

111.11 **TERMINATION.** Section 111.01 of this chapter notwithstanding, the City may terminate this franchise agreement on the fifth anniversary of the effective date of the franchise by giving the Company notice in writing of its intent to terminate the franchise agreement at least one year prior to such anniversary. Prior to terminating the franchise, the City shall conduct a public hearing and shall at three separate regular Council meetings pass and adopt an ordinance to terminate the franchise. Failure to give such notice abrogates the right of the City to terminate the franchise agreement on the fifth anniversary date, provided, however, that in the event notice is given, public hearing conducted and ordinance passed and adopted, the franchise agreement shall terminate on the fifth anniversary unless the parties agree to extend the term of the franchise agreement on mutually satisfactory terms and conditions. The City may terminate the franchise agreement on the tenth anniversary of the effective date of the agreement by giving the Company notice in writing of its intent to terminate the franchise agreement at least one year prior to such anniversary. Prior to terminating the franchise the City shall conduct a public hearing and shall at three separate regular Council meetings pass and adopt an ordinance to terminate the franchise. Failure to give such notice abrogates the right of the City to terminate the franchise agreement on the tenth anniversary date, provided, however, that in the event notice is given, public hearing conducted and ordinance passed and adopted, the franchise shall terminate on the tenth anniversary unless the parties agree to extend the term of the franchise agreement on mutually satisfactory terms and conditions.

111.12 **TERMINATION ON DEFAULT.** If the Company shall be in default in the performance of any of the terms and conditions of this chapter and shall continue in default for more than sixty (60) days after receiving notice from the City of such default, and the default is not contested by the Company, the City may, following a public hearing, by ordinance passed and adopted at three separate regular Council meetings, terminate all rights granted under this chapter to the Company unless MidAmerican Energy Company has made substantial progress toward curing the default. The Company shall not be considered to have defaulted on any terms or conditions of this chapter if the alleged default is the result of the actions of a third party.
CHAPTER 113
CABLE TELEVISION FRANCHISE AND REGULATIONS

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113.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. “Affiliate” means an entity which owns or controls, is owned or controlled by or is under common ownership with the Grantee.

2. “Basic cable service” means the tier of service regularly provided to all subscribers that includes the retransmission of local broadcast television signals.

3. “Basic revenues” means the monthly cable service revenues received by the Grantee from subscribers for basic cable service on an annual basis; provided, however, such phrase does not include: (i) revenues received from national advertising carried on the cable system; (ii) any taxes on cable service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency and which are collected by the Grantee on behalf of such governmental unit or agency.

4. “Cable Act” means the Cable Communications Policy Act of 1984, as amended.

5. “Cable service” means: (i) the one-way transmission to subscribers of video programming or other programming service; and (ii) subscriber interaction, if any, which is required for the selection of such video programming or any other lawful communications service.

6. “Cable system” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment or other communications equipment that is designed to provide cable service and other service to subscribers.

7. “FCC” means Federal Communications Commission or successor governmental entity thereto.

8. “Franchise” means the initial authorization or renewal thereof issued by the City whether such authorization is designated as a franchise, permit, license,
resolu
tion, contract, certificate or otherwise, which authorizes construction and
operation of the cable system for the purpose of offering cable service or other service
to subscribers.

9. “Grantee” means Heritage Cablevision, Inc., d/b/a TCI OF CENTRAL
IOWA, or the lawful successor, transferee or assignee thereof.

10. “Gross revenues” means the monthly cable service revenues received by the
Grantee from subscribers of the cable system; provided, however, such phrase does
not include: (i) revenues received from national advertising carried on the cable
system; (ii) any taxes on cable service which are imposed directly or indirectly on any
subscriber thereof by any governmental unit or agency and which are collected by the
Grantee on behalf of such governmental unit or agency.

11. “Person” means an individual, partnership, association, joint stock company,
trust corporation or governmental entity.

12. “Right-of-way” means the surface of, and the space above and below that
portion of the City’s public street system that is not improved for vehicular or
pedestrian travel.

13. “Service area” means the present municipal boundaries of the City and
includes any additions thereto by annexation or other legal means.

14. “Service tier” means a category of cable service or other services provided by
Grantee and for which a separate charge is made by the Grantee.

15. “Subscriber” means a person or user of the cable system who lawfully
receives cable services or other service therefrom with the Grantee’s express
permission.

16. “Video programming” means programming provided by or generally
considered comparable to programming provided by a television broadcast station.

**113.02 GRANT.** The City hereby grants to the Grantee a nonexclusive franchise which
authorizes the Grantee to construct and operate a cable system and offer cable service and
other services in, along, among, upon, across, above, over, under or in any manner connected
with right-of-ways within the service area and for that purpose to erect, install, construct,
repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across or along any
right-of-way and all extensions thereof and additions thereto, such poles, wires, cables,
conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments
and other related property or equipment as may be necessary or appurtenant to the cable
system.

**113.03 TERM.** The franchise granted pursuant to the ordinance codified in this chapter
shall be for an initial term of fifteen (15) years from the effective date of the franchise, unless
otherwise lawfully terminated in accordance with the terms of this chapter.†

**113.04 EQUAL PROTECTION.** In the event the City 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 City’s streets and right-of-ways for the purpose of

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† EDITOR’S NOTE: Ordinance No. 450, adopting a cable television franchise for the City, was
passed and adopted in 1994.
constructing or operating a cable system or providing cable service to any part of the service area, the material provisions thereof shall be reasonably comparable to those contained herein.

113.05 **INTERGOVERNMENTAL AGREEMENT.** The City may enter into an intergovernmental agreement with one or more other municipalities for joint administration of the franchise with the Grantee. The Grantee shall not provide cable service in Metro Des Moines, Iowa, at a charge or rate less than to the City’s service area and the cable service provided in such service area shall be comparable to that provided other service areas in Metro Des Moines.

113.06 **CONDITIONS OF STREET OCCUPANCY.** All transmission and distribution structures, poles, other lines and equipment installed or erected by the Grantee pursuant to the terms hereof shall be so located as to cause minimum interference with the proper use of rights-of-way, and with the rights and reasonable convenience of property owners who own property which adjoins any of said rights-of-way.

113.07 **RESTORATION OF RIGHTS-OF-WAY.** If during the course of Grantee’s construction, operation or maintenance of the cable system there occurs a disturbance of any right-of-way by the Grantee, the Grantee shall, at its own expense, replace and restore such right-of-way to a condition reasonably comparable to the condition of the right-of-way existing immediately prior to such disturbance.

113.08 **RELOCATION AT REQUEST OF CITY.** Upon its receipt of reasonable advance notice, not to be less than five (5) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the right-of-way, or remove from the right-of-way any property of the Grantee when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes or any other type of structures or improvements by the City; but the Grantee shall in all cases have the right of abandonment of its underground property.

113.09 **RELOCATION AT REQUEST OF THIRD PARTY.** The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings, provided: (a) the expense of such temporary raising or lowering of the wires is paid by the person requesting the same, including, if required by the Grantee making such payment in advance; and (b) the Grantee is given not less than ten (10) business days’ advance notice to arrange for such temporary wire changes.

113.10 **TRIMMING OF TREES AND SHRUBBERY.** The Grantee shall have the authority to trim trees and other natural growth overhanging any of its cable system in the service area so as to prevent the branches of the trees from coming in contact with the Grantee’s wires, cables and other equipment.

113.11 **SAFETY REQUIREMENTS.** Construction, installation and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable FCC or other Federal, State and local regulations. The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.
**113.12 AERIAL AND UNDERGROUND CONSTRUCTION.** In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee shall likewise, if requested by the City, construct, operate and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Grantee’s cable and other equipment without technical degradation of the cable system’s signal quality.

**113.13 REQUIRED EXTENSIONS OF SERVICE.** The Grantee states that its cable system is in good and proper condition as of the date of granting of the franchise. The Grantee is authorized to extend the cable system as necessary, as desirable or as required pursuant to the terms hereof within the service area. Whenever the Grantee receives a request for service from at least fifteen (15) subscribers within 1,320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its cable system to such subscribers at no cost to said subscribers for system extension, other than the usual connection fees for all subscribers, provided that such extension is technically feasible.

**113.14 SERVICE TO PUBLIC BUILDINGS.** The Grantee shall provide without charge one outlet of basic service to the City’s office building(s), fire station(s), police station(s) and public school building(s) that are passed by its cable system. The outlets of basic cable service shall not be used to distribute or sell cable services in or throughout such buildings, nor shall such outlets be located in common or public areas open to the public. Users of such outlets shall hold Grantee harmless from any and all liability or claims arising out of their use of such outlets, including but not limited to those arising from copyright liability. Notwithstanding anything to the contrary set forth in this section, the Grantee shall not be required to provide an outlet to such public buildings where the drop line from the feeder cable to said buildings or premises exceeds 150 cable feet, unless it is technically feasible and so long as it will not adversely affect the operation, financial condition or market development of the cable system to do so, or unless the appropriate governmental entity agrees to pay the incremental cost of such drop line in excess of 150 cable feet. In the event that additional outlets of basic cable service are provided to such buildings, the building owner shall pay the usual installation fees associated therewith, including, but not limited to, labor and materials.

**113.15 FRANCHISE FEE.** The Grantee shall pay to the City a franchise fee equal to one percent (1%) of basic revenues (as defined in Section 113.01 of this chapter) received by the Grantee from the operation of the cable system on a quarterly basis. Beginning January 1, 1995, the Grantee shall pay to the City a franchise fee equal to one percent of gross revenues (as defined in Section 113.01) received by the Grantee from the operation of the cable system on a quarterly basis. The franchise fee payment shall be due and payable sixty (60) days after the close of the preceding quarterly period. Each payment shall be accompanied by a brief report from a representative of the Grantee showing the basis for the computation. The City may request an adjustment of the franchise fee not more than once per calendar year; provided, however, such request shall be made in writing and received by the Grantee no later than July 31 of each calendar year. In the event that written notice is received by the Grantee on or before July 31, then the franchise fee adjustment shall commence January 1 of the following year. In no event shall the franchise fee payments required to be paid by Grantee exceed five percent of subscribers’ gross revenues received by Grantee in any twelve-month period as permitted by the FCC.

**113.16 LIMITATION ON FRANCHISE FEE ACTIONS.** The period of limitation for recovery of any franchise fee payable hereunder shall be five years from the date on which
payment by the Grantee is due. Unless within five years from and after the payment due date the City initiates a lawsuit for recovery of such franchise fee in a court of competent jurisdiction, such recovery shall be barred and the City shall be estopped from asserting any claims whatsoever against the Grantee relating to any such alleged deficiencies.

113.17 RENEWAL OF FRANCHISE. The City and the Grantee agree that any proceedings undertaken by the City that relate to the renewal of the Grantee’s franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act (as such existed as of the effective date of the Cable Act), unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of Federal or State law. In addition to the procedures set forth in said Section 626(a), the City agrees to notify the Grantee of its preliminary assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of the Grantee under the then current franchise term. The City further agrees that such a preliminary assessment shall be provided to the Grantee prior to the time that the four-month period referred to in Subsection (c) of Section 626 is considered to begin. Notwithstanding anything to the contrary set forth in this section, the Grantee and the City agree that at any time during the term of the then current franchise, while affording the public appropriate notice and opportunity to comment, the City and Grantee may agree to undertake and finalize negotiations regarding renewal of the then current franchise and the City may grant a renewal thereof. The Grantee and the City consider the terms set forth in this section to be consistent with the express provisions of Section 626 of the Cable Act.

113.18 TRANSFER OF FRANCHISE. The Grantee’s right, title or interest in the franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an affiliate, without the prior consent of the City, such consent not to be unreasonably withheld. 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.

113.19 TESTING FOR COMPLIANCE. The City may perform technical tests of the cable system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the cable system in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable State or Federal laws. Except in emergency circumstances, such tests may be undertaken only after giving the Grantee reasonable notice thereof, not to be less than two (2) business days, and providing a representative of the Grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the Grantee. In the event that such testing demonstrates that Grantee has substantially complied with such material provisions hereof, the cost of such testing shall be borne by the City. Except in emergency circumstances, the City agrees that such testing shall be undertaken no more than two (2) times per year in the aggregate, and that the results thereof shall be made available to the Grantee upon the Grantee’s request.

113.20 BOOKS AND RECORDS. The Grantee agrees that the City may review such of its books and records, during normal business hours and on a non-disruptive basis. Such records shall include (but shall not be limited to) any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The City
agrees to treat any information disclosed by the Grantee to it as confidential and only to disclose it to employees, representatives and agents thereof that have a need to know.

113.21 INSURANCE REQUIREMENTS. Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the franchise, Comprehensive General Liability Insurance in the amount of $1,000,000 combined single limit for bodily injury and property damage. Said insurance shall designate the City as an additional insured. Such insurance shall be non-cancelable except upon thirty (30) days’ prior written notice to the City, which notice and cancellation of insurance coverage shall only be permitted in the event of termination of the franchise, provided the Grantee shall have the right to cancel and substitute.

113.22 INDEMNIFICATION. The Grantee agrees to indemnify, save and hold harmless the City, its officers, boards and employees, from any and all liability or responsibility for any claim, demand, suit or cause of action whether presented directly or by suit in law or equity, claiming damages of any kind or nature for personal injury, bodily injury, death and property damage which arise out of the Grantee’s construction, operation or maintenance of its cable system. The Grantee, at its election, may appear and defend the City in any such claim, demand, suit or cause of action. If the Grantee declines, the indemnification shall then include reasonable attorney fees, investigative costs, witness fees and any other costs associated with the City’s defense and disposition.

113.23 NOTICE OF VIOLATION. In the event that the City believes that the Grantee has not complied with the terms of the franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

113.24 GRANTEE’S RIGHT TO CURE OR RESPOND. Grantee shall have thirty (30) days from receipt of the notice: (a) to respond to the City contesting the assertion of noncompliance; or (b) to cure such default; or (c) in the event that, by the nature of the default, such default cannot be cured within the thirty-day period, to initiate reasonable steps to remedy such default and notify the City of the steps being taken and the projected date that they will be completed.

113.25 PUBLIC HEARING. In the event that the Grantee fails to respond to the notice as described in Section 113.23, pursuant to the procedures set forth in Section 113.24, or in the event that the alleged default is not remedied within sixty (60) days after the Grantee is notified of the alleged default, the City shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of the Council, which is scheduled at a time which is no less than five business days therefrom. The City shall notify the Grantee of the time and place of such meeting and provide the Grantee with an opportunity to be heard.

113.26 ENFORCEMENT. Subject to applicable Federal and State law, in the event the City, after such meeting, determines that the Grantee is in default of any provision of the franchise, the City may:

1. Foreclose on all or any part of any security provided under the franchise, if any, including without limitation any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the City reasonably determines is necessary to remedy the default;

2. Commence an action at law for monetary damages or seek other equitable relief;
3. In the case of a substantial default of a material provision of the franchise, declare the franchise agreement to be revoked; or
4. Seek specific performance of any provision which reasonably lends itself to such remedy as an alternative to damages.

The Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the franchise by reason of any failure of the City to enforce prompt compliance.

113.27 EVENTS BEYOND CONTROL OF GRANTEE. The Grantee shall not be held in default or noncompliance with the provisions of the franchise or suffer any enforcement or penalty relating thereto where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages or other events reasonably beyond its ability to control.

113.28 ACTIONS BY THE CITY. In any action by the City or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner. Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

113.29 NOTICE. Unless expressly otherwise agreed between the parties, every notice or response to be served upon the City or Grantee shall be in writing and shall be deemed to have been duly given to the required party five business days after having been posted in a properly sealed and correctly addressed envelope by certified or registered mail, postage prepaid, at a post office or branch thereof regularly maintained by the U.S. Postal Service.
[The next page is 701]
CHAPTER 115

CEMETERY

115.01  Definition. The term “cemetery” means the Ridgedale Cemetery, the Kinsey-Lawson Cemetery and the Valley View Cemetery, which are municipal cemeteries under the provisions of Chapter 523I of the Code of Iowa and which are operated under the provisions of Chapter 523I of the Code of Iowa and this chapter.

(Code of Iowa, Sec. 523I.501)

115.02  Public Works Department. The Public Works Department shall operate the cemeteries in accordance with the rules and regulations therefor and under the direction of the Council. The duties of the department are as follows:

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

1. Authorize Openings. Authorize the opening of all graves.
2. Maintenance. Be responsible for the maintenance of the cemetery buildings, grounds and equipment and make a monthly report of the cemetery operation to the Council.

115.03  Records. It is the duty of the Public Works Director to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.
   A. The name and last known address of each owner or previous owner of interment rights.
   B. The date of each purchase or transfer of interment rights.
   C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

2. Interments.
   A. The date the remains are interred.
   B. The name, date of birth and date of death of the decedent interred, if those facts can be conveniently obtained.
   C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.04  Sale of Interment Rights. The Public Works Department is authorized to sell or transfer interment rights in the cemeteries subject to all restrictions of record and to all rules and regulations established by the Council. The sale or transfer of interment rights in
the cemeteries shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the Code of Iowa. Fees and charges for interment rights shall be paid to the Public Works Department at the time of arrangement for interment. The fees and charges shall be recommended by the Public Works Department and approved by resolution of the Council.

(Code of Iowa, Sec. 523I.310)

115.05 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery’s obligations in the event that interment spaces, memorials or memorializations are damaged or defaced by acts of vandalism.

(Code of Iowa, Sec. 523I.304)

[The next page is 715]
CHAPTER 120
LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the 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 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a 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 8:00 a.m. on Sunday and 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 8:00 a.m. on Sunday and 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 8:00 a.m. on Sunday and 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 a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center or events center.

(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, possess or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[2l])
12. Permit or allow any person under legal age to remain upon licensed premises unless less than fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of alcoholic beverages. This provision does not apply to holders of a class “C” beer permit only.

(Ord. 937 – Nov. 16 Supp.)

13. Sell, offer to sell, dispense or serve for on-premises consumption an unlimited number of servings of alcoholic liquor, wine or beer for a fixed price. Nothing in this subsection 12 shall be construed to prohibit a holder of a liquor control license or wine or beer permit (or its employees or agents) from: (i) including servings or drinks of alcoholic liquor, wine or beer as part of a hotel or motel package which includes overnight accommodations; (ii) providing a fixed price for an unlimited or indefinite amount of drinks for a private event, which is defined as an event restricted to a particular group of persons, provided that the licensee or permittee shall provide means or method by which to identify persons participating in the private event, such as the use of a separate room or a means to identify such participants; or (iii) providing a fixed price as otherwise permitted for a special event by the Council (provided, however, that no permit holder shall be allowed to hold such a special event more than twice per year).

120.06 AMUSEMENT DEVICES.

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

1. As used in this section an “electronic or mechanical amusement device” means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.
CHAPTER 121
CIGARETTE AND TOBACCO PERMITS

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

(Code of Iowa, Sec. 453A.1)

1. “Carton” means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.

2. “Cigarette” means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.

3. “Package” or “pack” means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.

4. “Place of business” means any place where cigarettes or tobacco products 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 or who engages in the business of selling tobacco products to ultimate consumers.

6. “Self-service display” means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

7. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business.
CHAPTER 121  
CIGARETTE AND TOBACCO PERMITS

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)

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

<table>
<thead>
<tr>
<th>FOR PERMITS GRANTED DURING:</th>
<th>FEE:</th>
</tr>
</thead>
<tbody>
<tr>
<td>July, August or September</td>
<td>$75.00</td>
</tr>
<tr>
<td>October, November or December</td>
<td>$56.25</td>
</tr>
<tr>
<td>January, February or March</td>
<td>$37.50</td>
</tr>
<tr>
<td>April, May or June</td>
<td>$18.75</td>
</tr>
</tbody>
</table>

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the Code of Iowa.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars ($300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) or the retailer’s permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) and the retailer’s permit shall be suspended for a period of thirty (30) days.

4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) and the retailer’s permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation with a period of four (4) years, the retailer’s permit shall be revoked.

The Clerk shall give ten (10) days’ written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)
CHAPTER 122
SOLICITORS

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 solicitors.

122.02 DEFINITION. As used in this chapter, the term “solicitor” means any person who represents themselves, any business, organization, or group soliciting or attempting to solicit from residences, or upon the public right-of-way or street, monies, contributions or orders for goods, subscriptions, services or merchandise to be delivered immediately or at a future date.

122.03 LICENSE REQUIRED; FEES. Any person or organization engaging in solicitation in the City shall first obtain a license as provided in this chapter.

1. Application and License Fees:
   A. At the time of license application, the applicant shall pay $25.00 to the City Clerk for each person making application for a solicitor’s license.
   B. At the time of license issuance, each licensee shall pay $25.00 to the City Clerk for a 90-day solicitor’s license.
   C. Any licensee who surrenders his/her license prior to the date of expiration shall not be entitled to a refund of any portion of the fee.

122.04 EXEMPTIONS. The following exemptions are to be permitted:

1. Newspaper carriers.
2. Members of local boy scout, girl scout, campfire or 4-H clubs, Future Farmers of America and similar nonprofit organizations, if the sales are to benefit the parent organization in its recognized operation and programs.
3. Farmers who offer for sale products of their own raising.
4. Students representing local schools conducting projects sponsored by organizations recognized by the schools.
5. Persons who make regularly scheduled route deliveries in residential areas of goods or services, e.g., lawn services, cable television service, dairy product delivery service.
122.05 CHARITABLE AND NONPROFIT ORGANIZATIONS.

1. Representatives of charitable organizations exempt from federal taxation and/or nonprofit organizations shall be subject to the requirements of this chapter except that they shall not be required to submit permit or application fees.

2. If the Clerk shall find that the organization qualifies for the exemption provisions and if he/she finds that all required information has been submitted in writing, he/she shall issue a license free of charge.

122.06 PEDESTRIAN USE OF THE ROADWAY FOR SOLICITING.

1. No person shall stand in a street as defined in Iowa Code §321.1, including the roadway medians, curbs, traffic islands, shoulders, sidewalks or crosswalks for the purpose of soliciting contributions, donations, or business from any person, without first meeting the requirements specified in this chapter.

2. Solicitation on a public right-of-way or street shall not be conducted in a manner obstructing traffic or limiting visibility for traffic on right-of-way or in any other way negatively impacting safety of vehicular or pedestrian traffic on public right-of-way.

122.07 APPLICATION FOR LICENSE. An application for a solicitor’s license shall be filed with the City Clerk. At the time of application, the applicant shall pay to the City Clerk the non-refundable sum of twenty-five dollars ($25.00) to cover administrative costs. The application shall contain the following information:

1. Name, permanent and local address, and local phone number for solicitor.

2. Date of birth and physical description for solicitor.

3. Company name and address.

4. Make, year, color and license plate information of any vehicle(s) to be used by the solicitor.

5. Description of merchandise.

6. Last three (3) places of business.

7. Solicitor’s supervisor or manager, phone number and his/her local address.

8. A list of all convictions for criminal offenses (excluding traffic offenses) during the five (5) years prior to application, including any charges currently pending.

9. An Iowa Division of Criminal Investigation criminal history report to be supplied by each solicitor which is dated no more than thirty (30) days prior to the application.

122.08 PHOTOGRAPHING OF APPLICANT. Each solicitor is required to be photographed and a photo kept on file as well as placed on the solicitor’s license.

122.09 ISSUANCE OF LICENSE. The City Clerk, upon review of said license application request with the assistance of the police department and any other appropriate department or agency, shall determine whether a license will be issued to the applicant. A waiting period of not less than three (3) working days from date of application shall be in effect to provide sufficient time for the City Clerk’s decision making process. In making his/her decision, the Clerk shall consider the following factors:
1. The information in the application is found to be correct.
2. The applicant has not been convicted of a felony or any offense involving theft or fraud, or sexual abuse and/or a crime requiring sex offender registration or any crime involving force or violence, moral turpitude or any violation of any law relating to the act of soliciting.

**122.10 DISPLAY OF LICENSE.** Each solicitor shall at all times while doing business in the City display the license provided for in this chapter.

**122.11 TIME RESTRICTION.** All licenses for solicitor sales shall be in force and effect only between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday and 1:00 p.m. and 5:00 p.m. on Sunday.

**122.12 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 or organization to whom issued.

**122.13 UNLAWFUL ACTS.**

1. **Fraudulent Representation/Harassment.** No licensee shall falsely or fraudulently misrepresent themselves, the business they represent, the quality, character or quantity of any article, item or commodity offered for sale or sell any unwholesome or tainted food or foodstuffs. No licensee shall harass, intimidate, coerce or threaten any individual to induce a sale.

2. **Prohibited Soliciting.** No solicitor shall do business or attempt to do business upon any property on which is posted notice that peddling and/or soliciting is prohibited.

3. **Soliciting Without A License.** It shall be unlawful to solicit without a valid license except as permitted in 122.04 of this chapter.

4. **Supervisor or Employer.** No person supervising or employing another to solicit shall knowingly allow a person under their supervision or employment to engage in an unlawful act as defined in this section. Each such unlawful act by each employee or supervised person may be charged as a separate offense. There shall be a rebuttable presumption that the supervisor or employer has knowledge of such unlawful acts if a police officer or employee of the City Clerk's office gives notice to the supervisor or employer of such unlawful acts and, subsequently, further unlawful acts are committed by the employee or person supervised.

5. **Solicitation on public right-of-way or street shall not be conducted in a manner obstructing traffic or limiting visibility for traffic on right-of-way or in any other way negatively impacting safety of vehicular or pedestrian traffic on public right-of-way.**

6. Each solicitor shall at all times while doing business in the City display the license provided for in this chapter.

7. All licenses for solicitor sales shall be in force and effect only between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday and 1:00 p.m. and 5:00 p.m. on Sunday.
122.14 REBATES ON LICENSE. No rebate shall be made upon revocation or upon surrender of any license before the expiration of the period for which it was issued.

122.15 SUSPENSION OR REVOCATION OF LICENSE.

1. Grounds. The City Clerk may suspend any license issued under this chapter, pending the outcome of an administrative hearing, for any of the following reasons:
   
   A. The licensee has made fraudulent statements in his/her application for the license or in the conduct of his/her business.
   
   B. The licensee has violated this chapter or any other chapter of this Code of Ordinances, Iowa Code, or has otherwise conducted his/her business in an unlawful manner.
   
   C. The licensee has conducted his/her business in such manner as to endanger the public welfare, safety, order or morals.
   
   D. The City Clerk has received and investigated three (3) or more written complaints during the licensed period from residents of the City who are dissatisfied with the manner in which the licensee is conducting business.

2. Notice. The City Clerk shall immediately serve notice to the licensee either in person or by regular mail to the licensee’s local address of the license suspension, the specific reason(s) for such action, and date and time of hearing with the Clerk to review the particulars of the suspension.

3. Hearing. A hearing shall be conducted by the City Clerk, with the assistance of the Chief of Police, not more than three (3) days after the Clerk has suspended a license. The licensee and any complainants may be present to determine the truth of the alleged violation of this chapter. Should the licensee or his/her authorized representative fail to appear without good cause, the City Clerk may proceed to a conclusion.

4. Revocation. After the City Clerk has reviewed the facts, the Clerk shall revoke a license if the Clerk finds that a violation of this chapter has occurred. The revocation shall be effective immediately.

5. Appeal. If the City 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 City 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.

6. Effect of Revocation or Denial. Revocation or denial of any license shall bar the licensee or applicant from being eligible for any license under this chapter for a period of at least one (1) year from the date of the revocation or denial. If the reason for revocation involves repeated offenses or a criminal offense, the revocation period may become permanent.

122.16 PENALTY. Commission of any act declared unlawful under section 122.13 of this chapter is a simple misdemeanor punishable as provided in Iowa Code section 903.1.

122.17 EXPIRATION OF LICENSE. All licenses granted under this chapter shall expire at 7:00 p.m. on the last day for which the license was issued.

(Ch. 122 - Ord. 795 - Apr. 09 Supp.)
CHAPTER 123
HOTEL/MOTEL TAX

123.01 TAX IMPOSED. There is imposed a seven percent (7%) hotel and motel tax upon the sales price from the renting of sleeping rooms, apartments or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, or tourist court or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, except the sales price from the renting of sleeping rooms in dormitories and memorial unions at all universities and colleges located in the State.

(Code of Iowa, Sec. 423A.1)

123.02 DEFINITION. “Renting” and “rent,” as used in this chapter, include any kind of direct or indirect charge for the use of sleeping rooms, apartments or sleeping quarters. However, the tax imposed in this chapter does not apply to the sales price from the renting of a sleeping room, apartment or sleeping quarters while rented by the same person for a period of more than thirty-one (31) consecutive days.

(Code of Iowa, Sec. 423A.1)

123.03 EFFECTIVE DATE OF TAX. The hotel and motel tax as set forth in this chapter shall be imposed on all sales prices received after April 1, 1985.

123.04 COLLECTION. The tax imposed in this chapter shall be remitted by the person or company liable for same to the State Director of Revenue in the manner required by State law.

(Code of Iowa, Sec. 423A.1)

123.05 RESTRICTIONS ON USE OF REVENUES. The revenue derived from the tax imposed by this chapter shall be accounted for as follows:

1. All revenue received by the City from the imposition of the hotel and motel tax shall be deposited in the General Fund of the City.

2. At least fifty percent (50%) of the revenue derived from the hotel and motel tax shall be spent for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating or maintaining recreational, convention, cultural or entertainment facilities, including, but not limited to, memorial buildings, halls and monuments, civic centers, convention buildings, auditoriums, coliseums and parking areas or facilities located at those recreational, convention, cultural or entertainment facilities, or the payment of principal and interest on bonds or other evidence of indebtedness issued by the City for those recreational, convention, cultural or entertainment facilities, or for the promotion and encouragement of tourist and convention business in the City and surrounding areas.
3. The remaining revenues may be spent by the City for any lawful purpose for which revenues derived from ad valorem taxes may be expended.
CHAPTER 124

MASSAGE THERAPY BUSINESS LICENSING

124.01 Purpose. State of Iowa licensed massage therapists and businesses offering massage therapy services perform an important service in addressing the health and wellbeing of our citizens. Unfortunately, there are businesses that advertise they provide massage therapy and/or other therapeutic services, but they are engaged in various illegal activities which may include prostitution and/or human trafficking. This ordinance IS NOT intended to discourage a legitimately licensed massage therapist or massage therapy business from providing their services in the city of Johnston. The purpose of this ordinance is to identify and address businesses that engage in the practice of massage therapy without a license and/or are involved in illegal activities which may include prostitution and/or human trafficking. Businesses providing massage therapy yet conducting various types of illegal activity are harmful to the City and the image of the massage therapy profession. The implementation of this ordinance will better enable the City to proactively screen, monitor and remove businesses that are engaged in illegal activity.

124.02 Definitions. For the purposes of this chapter, the following words and phrases have the meanings herein set forth, unless it is apparent from the context that a different meaning is intended.

1. “License” means permission granted by competent authority to exercise a certain privilege that, without such authorization, would constitute an illegal act. The document that confers permission to a person to engage in massage therapy shall be issued by the Iowa Board of Massage Therapy for State of Iowa; massage therapy business licenses shall be issued by the City of Johnston.

2. "Massage Therapy Business" means any place of business wherein any of the treatments, techniques, or methods of treatment referred to in subsection E are administered, practiced, used, given or applied.

3. “Massage Therapist” means a person licensed to practice the health care service of the healing art of massage therapy under Iowa Code, Chapter 152C.

4. "Massage patron" means any person who receives, or pays to receive, a massage or massage services from a massage therapist for value.

5. "Massage Therapy" means performance for compensation of massage, myotherapy, massotherapy, bodywork, bodywork therapy, or therapeutic massage including hydrotherapy, superficial hot and cold applications, vibration and topical applications, or other therapy which involves manipulation of the muscle and connective tissue of the body, excluding osseous tissue, to treat the muscle tonus.
system for the purpose of enhancing health, muscle relaxation, increasing range of
motion, reducing stress, relieving pain, or improving circulation.

6. “Reflexology” means manipulation of the soft tissues of the human body
which is restricted to the hands, feet, or ears, performed by persons who do not hold
themselves out to be massage therapists or to be performing massage therapy.

124.03 LICENSE REQUIRED. No person shall operate a massage therapy business,
either exclusively or in connection with another business, without being licensed as provided
in this chapter.

124.04 LICENSE FEE.

1. New Massage Therapy Businesses to Johnston.
   A. The initial license fee for a new massage therapy business to the City
      of Johnston is $75.00. There is an additional fee of $25 for each person
      performing massage therapy employed at the business. The additional fee will
      apply to a maximum of three additional employees performing massage
      therapy at the business or a maximum permit fee of $150. The license fee and
      additional fees shall be paid when the application is filed.
   B. The license, if granted, and not revoked or suspended, shall be valid
      so long as the business does not materially change ownership, business name
      or the service provided. An annual review shall be initiated by the City Clerk,
      with assistance from the police department, to confirm business ownership,
      business name, service(s) provided and accurate and up-to-date state licenses
      for the employees performing massage therapy.

2. Existing Massage Therapy Businesses within the City of Johnston.
   A. For a massage therapy business applying for licensure in the initial
      year of this ordinance's effective date (July 1, 2016 through June 30, 2017)
      the licensing fee identified in section 1 A, above, is waived. If an application
      properly submitted during the first year of the ordinance is approved, and the
      massage therapy business remains in continuous operation, renewal fees for a
      massage therapy business license will be waived. A massage therapy business
      grandfathered in under this section will be required to pay a $25 fee for each
      additional employee not included in their original application (up to a
      maximum fee of $75). The business will be required to go through the annual
      review process.

3. A separate license shall be obtained for each place of business. The licensee
   shall display the license in a prominent place in the licensed business at all times.

4. How Renewal Fee Determined. The Johnston Police Department will track
   personnel time costs related to the licensing program to quantify those costs and to
   evaluate program effectiveness.

5. During the twelve (12) month licensed period, the massage therapy businesses
   will be required to notify the City Clerk of changes in massage therapist staffing
   and/or business manager.

124.05 APPLICATION. Application for a massage therapy business license shall be made
on forms provided by the City Clerk’s Office. The application shall include:
1. The address of the property to be used and documentation establishing the applicant's interest in the premise on which the business will be located, which shall be in the form of a lease, deed, or other document that establishes the applicant's interest;

2. The names, ages, and addresses of the applicant, owner, manager and all employees who are or will be employed or present on the premises to perform massage therapy;

3. Dates and locations of other places the applicant has owned or operated as a massage therapy business;

4. Descriptions of all crimes or other offenses, including the time, place, date and disposition for which the applicant, owner, manager, and all persons employed by the applicant or present on the premise to perform massage therapy have been arrested, charged, or convicted;

5. A statement as to whether the applicant, owner, manager, or any person employed by the applicant has had any license to perform massage therapy denied, revoked or suspended in any city, state, county, or any country and the reason for the denial, revocation or suspension;

6. A government issued photo ID of the applicant, owner, manager and all employees or persons present on the premises who are or will be employed to perform massage therapy;

7. Such other information as the Chief of Police may require for purposes of conducting a background check. If it is determined that a nationwide background check is required, the applicant may be responsible for the expense to complete the background check.

8. Insurance. Any application for a license shall be accompanied by proof of insurance executed by an insurance company authorized to do business in the state of Iowa, in the amount of two-million dollars per occurrence, six-million dollars per policy year. All insurance policies hereunder shall provide for at least thirty (30) days prior notice to the Police Department before a cancellation thereof is effective and shall continue to provide coverage as to all matters arising during the term of the insurance policy whether or not later cancelled.

9. Provide proof of current State of Iowa massage therapy license for all employees who are or will be employed or present on the premises to perform massage therapy.

124.06 GRANTING OR DENIAL OF LICENSE. Business license applications shall be reviewed by the Chief of Police, who after considering all of the information provided and obtained in the background check shall either grant or deny the license.

124.07 CONDITIONS GOVERNING ISSUANCE.

1. No license shall be issued if the applicant or any of its owners, managers, employees, or agents has a criminal conviction for a sex crime as defined by Iowa Code Chapter 709, or for Prostitution as defined by Iowa Code Chapter 725, or for keeping a house of prostitution as defined by Iowa Code Chapter 657, or who is a registered sex offender, or who has been denied a license by any other community.
2. Licenses shall be issued only if the applicant and all of its owners, managers, employees and agents are free of convictions for offenses which involve sex crimes or which relate directly to such person's ability or fitness to legally and safely perform the duties and discharge the responsibilities of the licensed activity.

3. Licenses shall only be issued to applicants who have provided all of the information requested in the application, have paid the license fee and have cooperated with the Chief of Police and other city officials in review of the application.

4. The business license, if issued, shall be displayed on the business premise in a conspicuous public area.

124.08 EXEMPTIONS. This chapter shall not apply to the following businesses:

1. Businesses who employ or provide the services of persons who are licensed to practice medicine or surgery, osteopathic medicine and surgery, chiropractic, cosmetology arts and sciences, or podiatry in Iowa: or athletic trainers, nurses, occupational therapists, physical therapists, or physician assistants licensed, certified, or registered in this state or acting under the prescription or supervision of a person licensed to practice medicine, surgery, osteopathic medicine, or chiropractic in this state.

2. Massage Therapists who are employed or are contracted to perform massage therapy in a business identified in Section 124.08 1 (above).

3. Businesses who employ or provide the services of persons who are licensed, registered, or certified in another state, territory, the District of Columbia, or a foreign country when incidentally and temporarily present in this state to teach a course of instruction related to massage therapy and bodywork therapy.

4. Businesses which offer the services of students enrolled in a program recognized by the State Board of Massage Therapy while completing a clinical requirement for graduation performed under the supervision of a person licensed.

5. Persons giving massage therapy and bodywork to members of their immediate family.


7. Persons engaged within the scope of practice of a profession with established standards and ethics utilizing touch, words, and directed movement to deepen awareness of existing patterns of movement in the body as well as to suggest new possibilities of movement, provided that the practices performed or services rendered are not designated or implied to be massage therapy. Such practices include, but are not limited to, the Feldenkrais method, the Trager approach, and mind-body centering.

8. Persons engaged within the scope of practice of a profession with established standards and ethics in which touch is limited to that which is essential for palpitation and affectation of the human energy system, provided that the practices performed or services rendered are not designated or implied to be massage therapy.

9. Persons incidentally present in this state to provide services as part of an emergency response team working in conjunction with disaster relief officials.
124.09 GROUNDS FOR DENIAL AND REVOCATION OR SUSPENSION. It shall be grounds for denial, revocation and/or suspension of an application or massage therapy business license if one or more of the following conditions are met:

1. If the applicant or licensee is not complying with or has a history of violations of the laws and ordinances that might adversely impact public health or safety.

2. If the licensee solicits or advertises to offer services that are a violation of this chapter.

3. If the licensee is convicted of any violation, reasonably related to the licensed activity and/or occurring on the licensed premise, of any city ordinance or federal or state statute.

4. If there is fraud or deception involved in the license application.

5. If the licensee is found to be in control or possession of any narcotic drugs or controlled substances on the premises for which they are licensed to operate, possession of which is illegal as defined by Iowa Statutes or city ordinances.

6. If the licensee has, in the past, engaged in willful disregard for health codes and regulations.

7. If the applicant fails to provide all the information and certificates required by this chapter.

8. If the licensee permits an unlicensed individual(s) to conduct massage therapy services at the licensee’s premises.

9. If the licensee refuses to permit any authorized police officers or authorized city, county, or state governmental official to inspect the premises or operations.

10. If the licensee is found to be violating provisions of this chapter or the Iowa Code.

11. If the business promotes its services on websites that are known to advertise services that are illegal.

124.10 APPEAL PROCESS.

1. If an applicant has been denied, revoked or suspended pursuant to this chapter, then said applicant may file a written request with the City Administrator for review of the decision of the Chief of Police within ten (10) days from the receipt of said notice of denial, revocation or suspension. Failure to file a written request for review of the decision within this time frame shall constitute a waiver of any right to contest the decision to deny, revoke or suspend a license.

2. Within ten (10) days of the receipt of a request to review a decision of denial, revocation or suspension of any applicant’s license, the City Administrator shall notify the applicant of a date, time and place for a hearing to review the decision of the Chief of Police. Said hearing shall be informal and the applicant may present any oral or written testimony the City Administrator deems pertinent.

3. Within ten (10) days from the hearing held pursuant to subsection 2, the City Administrator will provide written findings and decision to the applicant.

4. If the applicant’s denial, revocation or suspension is upheld by the City Administrator, the applicant may then appeal said decision to the District Court pursuant to the laws of the State of Iowa.
124.11 **RESTRICTION AND REGULATIONS.**

1. Compliance with law. The licensee and persons in its employ shall comply with all applicable regulations and laws of the city and state.

2. Person in Charge. If the applicant is a partnership, corporation or other organizations, the applicant shall designate a person to be manager and in responsible charge of the business. The manager shall be a resident of Iowa. The manager shall provide written consent to serve as an agent for service of notices and other process relating to the business. The manager shall remain responsible for the conduct of the business until another suitable person has been designated in writing by the licensee. The licensee shall promptly notify the Chief of Police in writing of any change indicating the address of the new manager and the effective date of such change.

3. Hours of Business. The licensed premises shall not be open for business nor shall patrons be permitted on the premises between the hours of 10:00 p.m. and 6:00 a.m.

124.12 **PENALTY.** A person who commits or attempts to commit, conspires to commit or aids or abets in the commission of an act constituting a violation of this chapter, whether individually or in connection with one or more other persons or as principal, agent, or accessory is guilty of a simple misdemeanor. A person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, permits or directs another to violate a provision of this chapter is guilty of a simple misdemeanor.

124.13 **SEVERABILITY CLAUSE.** If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

*(Ch. 124 - Ord. 980 – Nov. 17 Supp.)*

[The next page is 751]
CHAPTER 135

STREET USE AND MAINTENANCE

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/MATERIALS ON. It is unlawful for any person to throw or deposit on any street, alley or public areas any glass, bottles, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, excrement, leaves, grass, construction/landscape materials or any other debris likely to be washed into any storm/sanitary sewer or waterway/stream, or any substance deposited upon an alley, street or public area likely to injure any person, animal or vehicle.

(Ord. 899 – June 15 Supp.)

(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 or in any manner disturb any street, parking or alley except in accordance with Chapter 141 of this Code of Ordinances.

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. Any person violating this section shall be fined twenty-five dollars ($25.00) for the first violation and shall be fined fifty dollars ($50.00) for each subsequent violation.

   *(Ord. 781 – Oct. 08 Supp.)*

   *(Code of Iowa, Sec. 364.12 [2])*
CHAPTER 136
SIDEWALK REGULATIONS

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. “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.

2. “Sidewalk” means all permanent public walks in business, residential or suburban areas.

3. “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.

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 forty-eight (48) hours after such accumulation, 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 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2d & e])
136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City in accordance with Chapter 141 of this Code of Ordinances.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be constructed in accordance with the Statewide Urban Design and Specifications and such other sidewalk standards as adopted by resolution of the Council. All such work shall be subject to inspection and approval by the City. If such work does not comply with the provisions of this chapter, the City, after notice to the property owner, shall cause the sidewalks to be constructed in the proper manner and assess the cost for such work against the abutting property for collection in the same manner as a property tax.

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of both the owner of the property abutting the sidewalk and the owner’s contractor or agent to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 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 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.16 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, excrement, or any other debris, or any substance likely to injure any person, animal or vehicle.

(Ord. 783 – Oct. 08 Supp.)

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

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. 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.

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CHAPTER 138
STREET GRADES

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.

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CHAPTER 139

NAMING OF STREETS

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

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: “This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Johnston, Iowa.”

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: “On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description),” which entry shall be signed by the Mayor and attested by the Clerk.
CHAPTER 140
CURB CUTS, DRIVEWAY APPROACHES
AND DRIVEWAYS

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<th>Article</th>
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<td>140.01</td>
<td>Definitions</td>
<td>For use within this chapter, the following terms are defined:</td>
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<td>Compliance Required</td>
<td>It is unlawful for any person to construct or place any curb cut or driveway approach without first complying with the provisions of this chapter and other applicable law.</td>
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<td>140.03</td>
<td>Permit Required</td>
<td>It is unlawful for any person to construct or emplace a new curb cut or a driveway approach or to enlarge or otherwise modify an existing curb cut or driveway approach without first obtaining a permit in accordance with Chapter 141 of this Code of Ordinances.</td>
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<tr>
<td>140.04</td>
<td>Notice of Noncompliance</td>
<td>The following are grounds for immediate removal of a curb cut or driveway approach by the City:</td>
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<td>140.05</td>
<td>Completion of Work</td>
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<td>140.06</td>
<td>Specifications</td>
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<td>Multiple Driveways</td>
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<td>140.08</td>
<td>Exceptions</td>
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<td>140.09</td>
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<td>140.11</td>
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<td>140.12</td>
<td>Inspection and Approval</td>
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<td>140.13</td>
<td>Maintenance of Driveway Approach</td>
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140.01 Definitions. For use within this chapter, the following terms are defined:

1. “Curb cut” means any depression in the curbing along the traveled portion of a street right-of-way originally designed or later created to permit and facilitate passage of motor vehicles between said street and any property adjacent to said street.

2. “Driveway” means a private lane or road which provides access from a public right-of-way to abutting property, not to include the “driveway approach.”

3. “Driveway approach” means that part of any driveway or road approach to property provided for the passage of motor vehicles which lies between the traveled portion of a street and property line of an abutting property.

(Ord. 849 – Dec. 11 Supp.)

4. (Repealed by Ord. 917 – June 15 Supp.)

140.02 Compliance Required. It is unlawful for any person to construct or place any curb cut or driveway approach without first complying with the provisions of this chapter and other applicable law.

140.03 Permit Required. It is unlawful for any person to construct or emplace a new curb cut or a driveway approach or to enlarge or otherwise modify an existing curb cut or driveway approach without first obtaining a permit in accordance with Chapter 141 of this Code of Ordinances.

140.04 Notice of Noncompliance. The following are grounds for immediate removal of a curb cut or driveway approach by the City:

1. Construction of a driveway approach without a permit;

2. Construction of a driveway approach which does not conform to the permit issued, to the provisions of this chapter or to any other provision of law.

Removal shall be at the expense of the owner of the property served. The cost of restoration of the curb and driveway approach to grade by the City shall be at the owner’s expense. The Public Works Director shall give notice to the present owner of the property served by such a curb cut or driveway approach that said curb cut or driveway approach to such person’s property is not in compliance with this chapter or other provision of law, specifying the deficiency, and if such owner, after receiving such notice, for a period of thirty days neglects or refuses to correct such deficiency, the Council may order removal and restoration. The
CHAPTER 140  CURB CUTS, DRIVEWAY APPROACHES  AND DRIVEWAYS

actual cost of such work shall be assessed against such property and shall be collected in the same manner as other special assessments.

140.05 COMPLETION OF WORK. The construction of any curb cut or driveway approach shall be completed within six months after the work begins; provided, however, if weather conditions, other forces of nature or circumstances beyond the control of the permittee make construction within such period impossible, then upon written application by the permittee to the Public Works Director and upon the Public Works Director’s finding such conditions to exist, construction shall be completed within thirty days after the termination of such conditions, such termination of conditions to be determined by the Public Works Director. Failure to complete construction within six months from commencement, or in the case of adverse conditions within thirty days after the termination of such conditions, shall require a new permit to be issued for construction at such location.

140.06 SPECIFICATIONS. All curb cuts and driveway approaches shall be constructed in accordance with Statewide Urban Design and Specifications and special provisions as adopted by the Council.

140.07 MULTIPLE DRIVEWAYS.

1. The curb cuts or driveway approaches to serve property in the agricultural zoning district shall be of a number and at locations so as to adequately serve the property in a safe manner, but shall be subject to specifications referred to in Section 140.06 and to the approval of the Public Works Director and City Administrator.

2. Curb cuts or driveway approaches to serve property in any residential zoning district shall be allowed as follows:

   A. For any single-family dwelling, one curb cut or driveway approach;

   B. For any duplex, town house or patio house, one curb cut or driveway approach per dwelling unit;

   C. For any multiple-family development, curb cuts or driveway approaches shall be of a number and location so as to adequately serve the property in a safe manner, but shall be subject to the specifications referred to in Section 140.06 and the approval of the Public Works Director and City Administrator.

3. Curb cuts or driveway approaches to serve property in any commercial or manufacturing zoning district shall be allowed as follows:

   A. For new curb cuts or new driveway approaches to serve developments subject to site plan requirements, the number of said curb cuts or driveway approaches shall be as shown on the approved site plan.

   B. For new curb cuts or new driveway approaches to serve existing developments and for modification to existing curb cuts or driveway approaches, said curb cuts or driveway approaches shall be of a number and location so as to adequately serve the property in a safe manner but shall be subject to the specifications referred to in Section 140.06 of this chapter and the approval of the Public Works Director and City Administrator.
140.08 EXCEPTIONS. Exceptions to the provisions of this chapter may be granted by the City Administrator, provided that any request for any such exception is made in writing and includes such pertinent information as may be required by the City Administrator.

1. In considering a request for an exception to Chapter 140, the City Administrator shall consider the following factors:
   A. The purpose for the additional access (e.g. access to an approved structure);
   B. Is the property located on a restricted access street;
   C. Does the property have enough street frontage to accommodate a second access (based on minimum lot widths in the zoning district);
   D. Consideration of any safety issues created by the additional access;
   E. Consider unique characteristics of the property that make it impractical to limit the number of accesses allowed in Chapter 140 (i.e. location of buildings on the property; changes in grade that make it difficult to access areas on the property);
   F. Is there frontage along more than one public street from which access to the structure can be accommodated;
   G. Does the applicant plan to provide a dustless surface (as defined in Chapter 166.33.3F(2)) from the driveway approach to the accessory structure that is similar to driveways within 250 feet of the curb cut.

2. Upon receipt of a written request for an exception of the provisions under Chapter 140 the City Administrator shall send a copy of the request to neighboring property owners within 250 feet of the property involved in the request. The neighboring property owners shall have 15 days from the receipt of the request to provide written comment.

3. The decision of the City Administrator shall be in writing and provided to the requestor and neighboring property owners within 250 feet of the property.

4. The requestor and/or neighboring property owners shall have 30 days from the date of the City Administrator's written decision to file a written appeal to the Board of Adjustment. Timely filed appeals shall be presented to the Board of Adjustment for consideration, pursuant to the process outlined in Chapter 166.16.  

(Ord. 917 – June 15 Supp.)

140.09 SIDEWALKS. The grade or condition of any sidewalk shall not be altered by the work done as provided for by this chapter, except as approved by the Public Works Director or City Administrator. The driveway shall cross the sidewalk at the same level as the sidewalk unless extraordinary circumstances exist.

140.10 CULVERTS. Culvert pipe of the size required by the City, determined from engineering calculations, shall be supplied by the applicant, who shall pay all costs associated with sizing and installation.

(Ord. 849 – Dec. 11 Supp.)

140.11 REVOCATION OF PERMIT. The Public Works Director may at any time revoke the permit for any violation of this chapter and may require that all work be stopped.
140.12 INSPECTION AND APPROVAL. The curb cut or driveway approach must be inspected and approved in writing by the Public Works Director within thirty days after completion of the work, and a record of such approvals shall be kept in the office of the Public Works Director. If the Public Works Director refuses to approve the work, it must be corrected immediately so that it will meet with the Public Works Director’s approval. If the work has been done improperly, the Public Works Director shall have the right to finish or correct the work and the Council shall assess the costs to the property owner. Such assessment shall be collected with the general property taxes.

140.13 MAINTENANCE OF DRIVEWAY APPROACH. It shall be the responsibility of the abutting property owner to maintain the driveway approach that lies between the abutting property line and the traveled portion of a public street.

(Ord. 849 – Dec. 11 Supp.)
CHAPTER 141

RIGHTS-OF-WAY WORK

141.01 PURPOSE. The purposes of this chapter are:

1. To promote the public health, safety and general welfare.
2. To ensure oversight and accountability for work done in the public rights-of-way.
3. To ensure management of facilities located in the public rights-of-way.
4. To manage a limited resource to the long-term benefit of the public.
5. To recover a portion of the costs of managing the public rights-of-way.
6. To minimize inconvenience to the public occasioned by the emplacement and maintenance of facilities in the public rights-of-way.
7. To prevent premature exhaustion of capacity in the public rights-of-way to accommodate communications and other services.
8. To assure restoration of damaged public property.

141.02 DEFINITIONS.

1. “Excavation” means any opening and/or tunneling in or under the surface of any public place or public rights-of-way in the City. The exception is an opening into a lawful structure below the surface of a public place or public right-of-way (e.g., a manhole), the top of which is flush with the adjoining surface and so constructed as to allow frequent openings without injury or damage to the public place or public right-of-way.

2. “Facility” means a pipe, sewer, pipeline, tube, main, service, trap, vent, vault, manhole, meter, gauge, regulator, valve, conduit, wire, tower, pole, pole line, anchor, cable, fiber optic, public irrigation system, junction box, transformer or any other material, structure, sign, traffic control device, or object of any kind or character, whether enumerated herein or not, which is or may be lawfully constructed, left, placed or maintained in, upon, along, across, under or over any public place or public right-of-way.

3. “Franchise” means an authorization granted by the City to a person to construct, maintain, or emplace facilities generally upon, across, beneath and over a public place or the public right-of-way in the City.
4. “Franchise agreement” means a contract entered into between the City and a franchisee that sets forth the terms and conditions under which the franchise may be exercised.

5. “Person” means any person, firm, partnership, association, corporation, company or organization of any kind, including private or public utility.

6. “Public place” means property owned or controlled by the City and dedicated to public use, including but not limited to any park, square or plaza.

7. “Public right-of-way” means the surface and space above, on and below, including but not limited to any public highway, avenue, street, lane, alley, sidewalk, boulevard, concourse, driveway, bridge, tunnel, park, parkway, waterway, dock, bulkhead, wharf, pier, public easement, or rights-of-way within the City on public or private property, in which the City now or hereafter holds any property interest which, consistent with the purposes for which it was dedicated or otherwise acquired, may be used for the purpose of constructing, operating, and maintaining a facility.

8. “Public Works Director” means the City of Johnston, Director of Public Works, or his or her designee.

9. “Routine maintenance” means the action of keeping in a certain state of repair, that is a regular, customary procedure and does not include excavation, restoration or impede the traveling public.

10. “Street lane closure notice” means a notice of approval required for any street lane closure.

11. “Substructure” means any pipe, conduit, duct, tunnel, manhole, vault, buried cable or wire, or any other similar structure located below the surface of any public place or public right-of-way.

12. “Traffic control device” means any traffic signal equipment, signs, interconnect lines or cables, paint or pavement markings, traffic safety barricades or cones, or any other in-place traffic safety device.

13. “Utility” means a private company and/or corporation or City department engaged in providing a particular service to the general public.

14. “Work” means any excavation upon, under or through a public place or the public rights-of-way at specified times and places to erect, construct, excavate, emplace, or otherwise work on facilities.

15. “Work permit” means an authorization to perform work, issued by the Public Works Director.

141.03 WORK PERMIT REQUIRED.

1. No person shall enter upon a public place or the public rights-of-way at any time to erect, construct, emplace or otherwise work on facilities without first obtaining a work permit to do so from the Public Works Director, except as otherwise provided in this chapter. No work permit to work or make an excavation in a public place or public rights-of-way shall be issued except as provided in this chapter.

2. No person shall tunnel under the surface of any public place or public rights-of-way for the purpose of making any gas, sewer, water, steam heating pipe or underground electric connection without first obtaining a work permit required herein.
3. No work permit shall be issued unless a written application (on a form provided by the Public Works Director) is submitted to the Public Works Director. The written application shall include:

A. Name and address of applicant;
B. Signature of applicant;
C. Principal place of business of the applicant, with contact information, including 24-hour notification capability;
D. Authority of the applicant to occupy the public place or public right-of-way for which the work permit is sought;
E. Appropriate indemnifying bond or insurance certificate if applicable;
F. Location and dimensions of the installation or removal and the approximate area and scope of the work to be done;
G. Location of all known survey monuments in the area of the work;
H. Location and dimensions of any relevant easement associated with the work;
I. Location and dimensions of any and all existing and proposed traffic control and traffic safety devices (including signs) that will be affected by the work;
J. The purpose of the facility and the proposed start date and ending dates that will be required to complete such work, including backfilling said excavation and removing all obstructions, material and debris, and restoration.
K. Any other sketches, maps, studies, engineering reports, tests, profiles, cross-sections, construction plans and specifications the Public Works Director may require to fully analyze the application.

The application, when approved and signed by the Public Works Director, shall constitute a work permit.

4. Any proposed lane closures will require the completion of a separate lane closure notice, including a sketch showing the location of the lane to be closed and applicable dimensions. The form is provided by the Public Works Director, and must also be submitted to and approved by the Public Works Director.

141.04 WORK PERMITS NOT TRANSFERABLE. A work permit issued under the provisions of this chapter shall not be transferable to another person.

141.05 EXCEPTIONS. The following are exempt from the application of this chapter:

1. A project that has been approved and funded by the City.
2. Routine maintenance, as determined by the Public Works Director. However, if damage is caused during routine maintenance, restoration shall be in compliance with Section 141.12 of this chapter.
3. Any improvement made in the right-of-way prior to adoption of Ordinance #680 published January 30, 2004. Examples of improvements would include retaining walls, trees or any other activity now governed by this chapter.

(Ord. 793 – Apr. 09 Supp.)
141.06 TERM OF WORK PERMIT.

1. The term for completion of the work, as included on the work permit, shall be defined by the Public Works Director at the time the work permit is issued.

2. If the work permit holder fails to meet the conditions included on the work permit as determined by the Public Works Director, the City reserves the right to nullify the work permit, restore the area using the security deposit and proceed to issue violations.

3. A work permit may be renewed, for a period to be determined by the Public Works Director, upon demonstration by the work permit holder that circumstances or conditions require an extension of time in order to accomplish the work covered by the work permit.

4. An extension may be granted by the Public Works Director if requested prior to the expiration date of the original work permit.

141.07 FEES. The purpose of a work permit fee is to reimburse the City for a portion of the expense in issuing the work permit, and any on-site inspection required. A work permit fee may be charged by the City for the issuance of a work permit. The fee for each work permit shall be established in accordance with a resolution adopted by the City Council.

141.08 BOND, CERTIFICATE OF INSURANCE AND SPECIAL DEPOSIT OR ANNUAL BOND REQUIREMENTS.

1. Indemnifying Bond or Certificate of Insurance. Before a work permit is issued as herein provided, the applicant shall deposit with the City an indemnifying bond payable to the City, or file a certificate of insurance in favor of the City in such amounts of not less than $100,000.00 for any one person killed or injured, $300,000.00 for total liability for all persons killed or injured in one accident and $50,000.00 for any property damage incurred as a result of an accident.

   A. The indemnifying bond or certificate of insurance shall indemnify and save harmless the City, its officers, employees, agents and representatives against any and all damages, claims, losses, demands, judgments, actions or causes of actions, including payments made under the workmen’s compensation laws and any costs including attorney fees arising out of or in connection with the excavation or tunneling and other works covered by the excavation work permit or for which the City, City Council, or any City officer, employee, agent or representative may be held liable by reason of any accident or injury to any person, including the work permit holder, its agents or employees, or any property through the fault of the work permit holder, its agents or employees, either in not properly guarding the excavation or the maintenance of the excavation or for any other injury resulting from the negligence, wrongful acts, faults or misconduct on the part of the work permit holder, its agents or employees.

   B. The City, the City Council, and its agents, employees or representatives shall not be liable nor share any cost incidental to the removal, reconstruction or relocation of any structure or facility of a work permit holder or any person or of any utility placed in any public place, public rights-of-way or public easement, in the exercise of any power the City, the City Council or any officer of the City now has or which may hereafter be authorized or permitted by the laws of the State.
CHAPTER 141

RIGHTS-OF-WAY WORK

C. In addition, if the City, through its City Council, elects to alter or change the grade of any street, alley, or public way, work permit holder shall, upon reasonable notice by the City, remove, or relocate any substructure or facility at work permit holder’s expense.

D. An annual indemnifying bond or certificate of insurance for a specified period given under this provision shall remain in full force and effect during the period specified in the application to cover all excavation work in public places or public rights-of-way.

2. Security Deposit or Annual Bond. The application for a work permit to perform work under this chapter shall be accompanied by a $10,000.00 security deposit or annual bond made to the City and submitted to the Director of Finance. The City may use any or all of this amount to pay the cost of any work the City performs to restore or maintain the public place or public rights-of-way as herein provided in the event the work permit holder fails to perform such work, in which event the work permit holder will not be issued any more work permits until the security deposit or annual bond is again reinstated. Use of the security deposit or annual bond by the City shall not affect the City’s right to issue a municipal infraction or charge a work permit holder with a simple misdemeanor.

3. Refund of Security Deposit. Upon the Public Works Director’s receipt of written application by the work permit holder, all security deposits shall be refunded by the City to the work permit holder upon completion of the work. This does not remove the responsibility of the work permit holder to complete the work as required in this chapter; actual completion shall be determined by the Public Works Director.

141.09 MAINTENANCE OF DRAWINGS.

1. Maps shall be drawn to a scale of not less than one inch to two hundred feet (1” = 200’). The scale shall show in detail the plan location, size and kind of installation, if known, of all substructures; except service lines designed to serve single properties beneath the surface of the public place or public rights-of-way belonging to, used by or under the control of such person having any interest.

2. In addition, updated maps of the same specifications shall be filed with the Public Works Director no later than April 1 of every year, for the previous year’s work, relative to the work permits that have been issued.

3. Failure to file maps with the Public Works Director shall be considered grounds for denial of future work permits to the applicant.

141.10 MANNER OF EXCAVATION. Excavation shall be in compliance with the adopted standards of the City.

141.11 TEMPORARY BARRIERS AND WARNING DEVICES. Temporary barriers and warning devices shall be in compliance with the Manual for Uniform Traffic Control Devices (MUTCD) standards.

141.12 RESTORATION OF EXCAVATED SITE.

1. Restoration shall be in compliance with the adopted standards of the City.

2. If an owner or operator or any agent of a facility disturbs a pavement, sidewalk, driveway or other surfacing, or landscaping in public rights-of-way, the
owner or operator or agent, in a manner approved by the Public Works Director, shall replace and restore all pavement, sidewalk, driveway or other surfacing, or landscaping disturbed, in substantially the same condition and in a good, workmanlike, timely manner, in accordance with any standards for such work set by the City. Such restoration shall be completed prior to expiration of the work permit.

3. The work permit holder is responsible for correcting defective materials and/or workmanship for at least one year from the date of completion included on the work permit.

4. If any work remains unfinished or is not in compliance at the expiration of the work permit and as determined by the Public Works Director, then the City will proceed to restore the area using the security deposit and proceed to issue violations.

5. Upon completion of all work provided for in the work permit or as directed by the Public Works Director, the work permit holder shall remove all temporary barriers and warning devices.

141.13 EMERGENCY EXCAVATION WORK.

1. Urgent Work. When traffic conditions, the safety or convenience of the traveling public or the public interest, require that the excavation work be performed as emergency work, the Public Works Director shall have the authority to order that an adequate crew and facilities be employed by the work permit holder for twenty-four (24) hours a day until the work is completed.

2. Emergency Action. Nothing in this chapter shall be construed to prevent the making of such excavations as may be necessary for the preservation of life or property or for the urgent location of trouble in a facility, or for making emergency repairs, provided that the person making such excavation shall apply to the Public Works Director for such a work permit on the first working day after such work is commenced.

141.14 PRESERVATION OF MONUMENTS. Any monument set for the purpose of locating or preserving the lines of any street or property subdivision, or a precise survey reference point, or a permanent survey benchmark within the City shall not be removed or disturbed or caused to be removed or disturbed without first obtaining permission in writing from the Public Works Director to do so. Permission to remove or disturb such monuments, reference points or benchmarks shall only be granted upon condition that the person applying for such permission shall pay all expenses incident to the proper replacement of this monument by the City.

141.15 SIGNAGE. No signs shall be removed, except by the City. If signs are removed or damaged, the work permit holder shall reimburse the City for the actual cost of replacement by the City.

141.16 RELOCATION AND PROTECTION OF FACILITY.

1. The work permit holder shall not interfere with any existing facility without the written consent of the Public Works Director and the owner of the facility or said owner’s agent. If it becomes necessary to relocate an existing facility, this shall be done by said owner or agent. No facility, either owned by the City or a person or utility, shall be moved to accommodate the work permit holder unless the cost of such
work is borne by the work permit holder or unless other arrangements are made to the satisfaction of the Public Works Director.

2. The work permit holder shall support and protect all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work. The work permit holder shall secure approval of the method of support and protection from the owner of the facility. In case any of said pipes, conduits, poles, wires, or apparatus or any substructures or facility should be damaged, including any pipe coating or other encasement or devices, the work permit holder shall promptly notify the owner thereof.

3. All facilities damaged by the work permit holder shall be repaired by the agency or person owning them and the expense of such repairs shall be paid by the work permit holder. It is the intent of this chapter that the work permit holder shall assume all liability for damage to facilities or substructures and any resulting damage or injury to anyone because of such facility or substructure damage and such assumption of liability is a contractual obligation of the work permit holder.

4. The only exception shall be such instances where damage is exclusively due to the negligence of the owning utility. The City shall not be made a party to any action because of this chapter.

5. The work permit holder is responsible for researching the existence and location of all underground facilities and substructures and for protecting the same against damage.

141.17 ABANDONMENT OF SUBSTRUCTURES. Whenever the use of a substructure or facility is abandoned, except the abandonment of service lines designed to serve single properties, the person owning, using, controlling, or having an interest therein shall file with the City, within thirty (30) days after such abandonment, a statement in writing giving in detail the location of the substructure or facility so abandoned. If such abandoned substructure or facility is in the way, or subsequently becomes in the way, of an installation of the City or any other public body or utility authorized or approved by the City, the Public Works Director may require removal of the same; the cost of its removal shall be paid by the owner or owner’s agent. The conditions of removal and restoration shall be determined by the Public Works Director on a case-by-case basis.

141.18 APPROVAL; REVOCATION. The Public Works Director may suspend or revoke a work permit or approval under this chapter and order that all work stop for any one or all of the following reasons:

1. For conducting or accomplishing permitted work in such a manner as to materially and adversely affect the health, welfare, or safety of persons residing in, owning property in, or working in the neighborhood of the property where such work has occurred.

2. For conducting or accomplishing permitted work in a manner that is materially detrimental to the public welfare, or other property, or improvements within the neighborhood or the City.

3. For violation or failure to comply with any provision of this chapter.
141.19 APPEAL.
1. Any person aggrieved by an order, requirement, decision or determination of the Public Works Director in the enforcement of this chapter may, within thirty (30) calendar days thereof, appeal such action to the Board of Appeals by filing with the Board of Appeals an appeal specifying the grounds thereof. The Public Works Director shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from is taken.

2. Before an appeal is filed with the Board of Appeals, the appellant shall pay to the City a fee in accordance with a duly approved resolution of the Council.

3. Upon receipt of such an appeal, and payment of the fee, the Board of Appeals or its designated representative shall establish a date, time and place for a public hearing on the appeal and shall cause the preparation, publication, posting and distribution of a public notice of said hearing.

4. The public hearing shall be attended by the appellant or agent, and by the Public Works Director or other designated official of the City.

5. The Board of Appeals may modify, reverse or affirm, wholly or partly, the order, requirement, decision or determination appealed from. It shall not have the power to grant exceptions or variances to the requirements of this chapter.

6. A majority vote of the members of the Board of Appeals present at the hearing shall be necessary to reverse any order, requirement, decision or determination appealed from.

141.20 RESPONSIBILITY. The failure of City officials to observe or foresee hazardous or unsightly conditions, or to impose other additional conditions or requirements on approved applicants or work permit holder, or to deny or revoke a work permit or approval, or to stop work in violation of this chapter, shall not relieve the work permit holders of the consequences of their actions or inactions or result in the City, its officers or agents, being liable therefor, or on account thereof.

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CHAPTER 142
MAILBOXES

142.01  Purpose. The City’s right-of-way is held by the City primarily for the purpose of pedestrian and vehicular passage and for the City’s provision of essential public safety services, including police, fire and emergency medical response services, and public health services including sanitary sewer, water and storm drainage. The purpose of this chapter is to provide standards for mailboxes in order to maintain the safety and visual character of the City’s right-of-way.

142.02  Definitions.

1. “Breakaway support” means a supporting post which shall be no larger than a 4″ x 4″ wood post or a metal post with a strength no greater than a 2″ diameter schedule 40 steel pipe and which is buried no more than 24 inches deep. Such support post shall not be set in concrete unless specifically designed as a breakaway support system as defined by the American Association of State Highway and Transportation Officials, May 24, 1994 (ASHTO).

2. “Cluster box units (CBU)” means a style whereby mailboxes are assembled together in a manufactured unit by an approved USPS supplier.

3. “Curbside mailbox” means a mailbox consisting of a lightweight sheet metal or plastic box meeting the specifications of the United States Postal Service (USPS), which is erected at the edge of a roadway or curbside of a street and is mounted on a breakaway support post, and is intended to be used for the collection of mail and is to be served by a carrier from a vehicle.

4. “Custom-built mailbox” means a mailbox erected at the edge of a roadway or curbside of a street constructed using materials that do not meet the definition of a “curbside mailbox” and “breakaway support.”

142.03  Visibility; Obstruction. All mailboxes and cluster box units must be erected:

1. Away from the intersection of two or more streets, and in no case closer than 100 feet measured from the centerline of the intersection, in order to prevent obstruction of free and clear vision; and

2. Away from any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of or be confused with any authorized traffic control device.

142.04  Curbside Mailbox Requirements. All curbside mailboxes installed after the adoption of the ordinance codified in this chapter must comply with the following installation requirements:
1. The bottom of the mailbox shall be 44" to 46" from the top of the pavement as defined by USPS installation requirements.
2. Lateral placement of the mailbox shall be no more than 6" from the face of the curb or edge of pavement on streets without curbs, as defined by USPS installation requirements.
3. The mailbox support post shall be of a “breakaway support” as defined by ASHTO.
4. The property owner shall be responsible for the maintenance of the curbside mailbox.

142.05 CLUSTER BOX UNIT REQUIREMENTS. All cluster box units installed after the adoption of the ordinance codified in this chapter must comply with the following installation requirements:

1. The cluster box unit shall be located on a concrete pad located between the sidewalk and the curb and the cluster box unit shall be setback a minimum of three feet from the curb.
2. The location of any cluster box unit shall be approved by the City and the USPS. For cluster box units in new subdivisions, the location of the cluster box units shall be shown on the preliminary plat.
3. A sidewalk shall be constructed perpendicular to the curb adjacent to the cluster box unit providing a pedestrian connection from the cluster box unit to the curb. Said sidewalk shall be constructed to meet the City sidewalk standards and specifications.
4. Cluster box units shall not be located anywhere within the bulb of a cul-de-sac or more than 600 feet from the property line of those residents served by the cluster box units, the 600 feet may be exceeded where it is impossible or impractical to place cluster box units to meet this requirement.
5. Cluster box units shall not be located to conflict with any public utilities, including but not limited to manholes, fire hydrants and intakes.
6. No driveway or street access shall be constructed within 5 feet of the cluster box units.
7. Cluster box units shall be located at property lines on the same side of the street that will be designated as a no parking zone.
8. The cost of installation, including but not limited to box units, the concrete pad and the connecting sidewalk, shall be borne by the property owner, developer or USPS. Subsequent maintenance of the box units and concrete pad shall be the responsibility of the USPS. Subsequent maintenance of the connecting sidewalk shall be the responsibility of the property owner adjacent to the sidewalk.
9. Where cluster box units are being used within a new subdivision plat, the concrete pad and connecting sidewalk shall be constructed prior to the City’s acceptance of the public improvements.

142.06 RESPONSIBILITIES OF THE PROPERTY OWNER. The owner of any mailbox located in the public right-of-way after the adoption of the ordinance codified in this chapter shall be deemed to have agreed to the terms of this section as a condition of the
owner’s continued use of the right-of-way. If a custom-built mailbox in place at the time of adoption of the ordinance codified in this chapter is damaged beyond repair, the replacement mailbox must be in compliance with this chapter. Any property owner who places any structure or item of any kind in the right-of-way, including a mailbox, shall hold the City harmless from any liability relating to the construction and maintenance of the structure in the right-of-way or because of any defect therein of said structure.

142.07 RESPONSIBILITIES OF THE CITY AND/OR UTILITY. Any type of mailbox located in the City right-of-way is subject to damage or destruction, at any time, as the result of the City or person with a utility easement entering upon the City right-of-way, such as snow removal, pavement repair or street cleaning. If any single mailbox located in the City right-of-way is damaged during such activities, the City or the utility that damaged the mailbox may replace such a mailbox with a standard curbside mailbox that complies with Section 142.04 of this chapter or, in the discretion of the City or utility, pay a fee to the property owner for the repair of the mailbox, in an amount not to exceed the amount specified in a resolution as approved by the City Council.

(Ord. 821 – Aug. 10 Supp.)
[The next page is 801]
CHAPTER 145

EROSION AND SEDIMENT CONTROL
AND STORMWATER MANAGEMENT

145.01 PURPOSE. The purpose of this chapter is to regulate and control the design, construction, quality of materials and use and maintenance of any development or other activity which disturbs or breaks the soil profile or otherwise results in the movement or compaction of soil in the City, and by requiring the abatement of certain accumulation of soil. Further, such purposes are:

1. To care for and protect the quality of our soil and water resources;
2. To protect, restore and maintain the chemical, physical and biological integrity of streams and their water resources;
3. To remove pollutants delivered in urban storm water;
4. To protect public water supplies;
5. To minimize erosion and control sedimentation;
6. To provide infiltration for stormwater runoff;
7. To care for, protect and control existing and future City streets, sidewalks, sewers, and other municipal and private property;
8. To prevent the despoliation of the environment;
9. To further the goals of the Johnston Comprehensive Plan;
10. To promote and preserve the rights, privileges, property, safety, health, welfare, comfort and convenience of the residents of, property owners within, and visitors to the City;
11. To verify that various design options have been considered by the applicant, and to determine whether or not the highest and best use of the property may require removal of some or all of the existing trees, other vegetation or other natural features;
12. To achieve and maintain compliance with Section 145.02.
145.02 FINDINGS.

1. The United States Environmental Protection Agency’s (EPA) National Pollutant Discharge Elimination System (NPDES) permit program (Program) administered by the Iowa Department of Natural Resources (IDNR) requires that cities meeting certain demographic and environmental impact criteria obtain from the IDNR an NPDES permit for the discharge of storm water from a Municipal Separate Storm Sewer System (MS4 Permit). The City is subject to the Program and is required to obtain, and has obtained, an MS4 Permit; the City’s MS4 Permit is on file at Johnston City Hall and is available for public inspection during regular office hours.

2. The Program requires certain individuals engaged in construction activities (applicant or applicants) to submit an application to the IDNR for a State NPDES General Permit #2. Notwithstanding any provision of this chapter, every applicant bears final and complete responsibility for compliance with a State NPDES General Permit #2, City Permits and any other requirement of State or Federal law or administrative rule.

3. The United States Environmental Protection Agency (EPA) has established that runoff from urbanized areas is one of the leading sources of water quality impairments.

4. In Iowa, more than 90% of the rainfall events are defined as 2-year recurrence interval, smaller high frequency storms.

5. A variety of inorganic, organic, bacteriological and other pollutants are added to the stormwater runoff as it moves across the urban landscape.

6. Slowing down and decreasing runoff and increasing infiltration will partially address surface water quality impairments.

7. As a condition of the City’s MS4 Permit, the City is obliged to undertake primary responsibility for administration and enforcement of the Program by adopting or amending an erosion and sediment control ordinance designed to achieve the following objectives:

   A. Any person, firm, sole proprietorship, partnership, corporation, State agency or political subdivision required by law or administrative rule to apply to the IDNR for a State NPDES General Permit #2 shall also be required to obtain from the City a Grading Permit as required in Section 145.06, in addition to and not in lieu of the State NPDES General Permit #2; and

   B. The City shall have primary responsibility for inspection, monitoring and enforcement procedures to promote compliance with State NPDES General Permits #2 and City Permits.

8. As a condition of the City’s MS4 Permit, the City is obliged to adopt or amend an ordinance which will address the control of runoff from building activities after construction has been completed and achieve the following objectives:

   A. Require water quality and quantity components be considered in the design of new construction and implemented when practical; and

   B. Promote the use of stormwater detention and retention, grass swales, bioretention swales, riparian buffers and proper operation and maintenance of these facilities.
9. Under Section 303(d) of the Clean Water Act, States are required to submit a list of waters for which effluent limits will not be sufficient to meet all state water quality standards. Watersheds identified with the City of Johnston drain to the following waters which are listed as impaired by the Iowa Department of Natural Resources:

   A. Saylorville Reservoir;
   B. The Des Moines River;
   C. Beaver Creek.

10. The determination of appropriate minimum stormwater management standards and guidelines and the development of effective best management practices (BMPs) to achieve those standards and guidelines require technical expertise that may not always be readily available within City’s own staff. Moreover, it is important that these requirements be reasonably consistent across the state so that property owners and developers are not confronted with myriad variations depending upon the location of development.

   A. The “Iowa Stormwater Management Manual” published collaboratively by the Iowa Department of Natural Resources and The Center for Transportation Research and Education at Iowa State University establishes guidelines, including but not limited to unified sizing criteria, stormwater management designs and specifications and BMPs. The City hereby finds and declares that the guidelines provided for in the Iowa Stormwater Management Manual, and in future editions thereof, should be and are hereby adopted as the stormwater management guidelines of the City, subject to any approved Amendments. Any BMP installation that complies with the provisions of the Iowa Stormwater Management Manual, or future editions thereof, and that is acceptable to the City at the time of installation shall be deemed to have been installed in accordance with this chapter.

   B. The Natural Resources Conservation Service (NRCS) publishes Conservation Practice Standards which establish guidelines, including but not limited to filter strips, riparian forest buffers, streambank and shoreline protection, stream habitat improvement and management. The City hereby finds and declares that the guidelines provided for in the Conservation Practice Standards, and in future editions thereof, should be and are hereby adopted as the stormwater management guidelines of the City, subject to any approved Amendments. Any BMP installation that complies with the provisions of the Conservation Practice Standards, or future editions thereof, and that is acceptable to the City at the time of installation shall be deemed to have been installed in accordance with this chapter.

   C. Proposed stormwater management facilities shall be designed by a licensed professional engineer (if required by and in accordance with the Code of Iowa) or landscape architect or a professional in erosion and sediment control or a representative of the local Soil and Water Conservation District, credentialed in a manner acceptable to the City.

   D. If a reference other than Paragraph A or B above was used to design the stormwater management facility(s), it shall be documented in writing to the City, reviewed by city staff and approved by the City Council.
11. No State or Federal funds have been made available to assist the City in administering and enforcing the Program. Accordingly, the City shall fund its application, inspection, monitoring and enforcement responsibilities entirely by fees imposed as adopted by resolution of the Council.

12. Terms used in this chapter shall have the meanings specified in the Program.

145.03 RELATED SECTIONS.

1. See Chapter 102, Storm Drainage System.
2. See Chapter 180, Subdivision Regulations.

145.04 DEFINITIONS. For the purpose of this chapter, the following terms shall have or include the following meanings:

1. “Approval” means formal, written consent by the Council or an authorized representative of the City.
2. “Approved applicant” means a person with an approved grading permit, site plan or plat.
3. “Benefited property” means the property included in the Stormwater Management Agreement and/or on a recorded Plat or other document acceptable to the City that is identified as being served by the Stormwater Management Facility(s) to address stormwater runoff from the property.
4. “Board of Appeals” means the Board of Appeals of the City.
5. “Clearing” or “cleared” means any intentional, unintentional or negligent act that results in the cutting, removal of all or a substantial part of, or damage to a tree or other vegetation that will cause the tree or other vegetation to decline and/or die. Such acts shall include (but are not limited to):
   A. Damage inflicted upon the root system;
   B. The application of substances toxic to trees and other vegetation;
   C. The operation of equipment and vehicles;
   D. The storage of temporary structures and materials, including materials used for building and construction; or
   E. The changing of the natural grade due to the unapproved alteration of natural physical conditions.
6. “Detention” means the holding of stormwater runoff for a short period of time before releasing it to the natural water course. See “retention.”
7. “Detention, On-Site” means the storage of stormwater runoff on or near the site where precipitation occurs.
8. “Enforcement officer” means the building official or other designated representative of the City assigned the responsibilities of this position.
9. “Erosion” means the wearing away of ground surface.
10. “Excavate” or “excavation” means any land-disturbing activity, by which organic matter, earth, sand, gravel, rock, trees, vegetation, or other ground cover is
cleared, graded, cut into, dug, quarried, uncovered, removed, displaced, relocated or moved, and includes the conditions resulting therefrom.

11. “Fill” means any land-disturbing activity by which earth, sand, gravel, rock or other material is deposited, placed, replaced, pushed, dumped, pulled, transported or moved to a new location and includes the conditions resulting therefrom.

12. “Grade” or “grading” means any excavating, filling or combination thereof.

13. “Grading limits” means the outermost edge of the area in which the existing topography is to be altered by clearing or excavation.

14. “Grading bond” means a bond posted pursuant to Section 145.16 of this chapter.

15. “Grading permit” means the permit required by Section 145.06 of this chapter.

16. “Horticultural activity” means the cultivation of a garden and landscape installation and maintenance for a single-family residential property. It also includes the commercial operation of an orchard or landscape nursery.

17. “Land-disturbing activity” means any action which alters the surface of the land and makes the land more vulnerable to soil erosion. This includes but is not limited to such actions as clearing, grading, compacting and excavation.

18. “Log” means any and all documentation covering activities on a site. See also: Stormwater Pollution Prevention Plan (SWPPP).

19. “Permit holder” means a person holding a grading permit which has not expired or been revoked.

20. “Person” means any individual, firm, partnership, domestic or foreign corporation, association or joint stock association, trust or other association or entity, but does not include a governmental body or political subdivision except where required for compliance with a State NPDES General Permit #2 and any other requirement of State or Federal law or administrative rule.

21. “Property” means land located in the City, whether or not with buildings or other structures on the land.

22. “Property owner” means a person who, alone or with another person or other persons, holds the legal title to property; except, however, where property has been sold on contract to a person who has the present right to possess the property and the contract has been filed for record in the office of the Recorder for Polk County, Iowa, the person so purchasing the property, whether alone or with another person or other persons, is the property owner, and not a mortgagee.

23. “Qualified personnel” means those individuals capable enough and knowledgeable enough to perform the required functions adequately well to ensure compliance with the relevant permit conditions and requirements of the Iowa Administrative Code.

24. “Retention” means the holding of stormwater in a storage facility for a considerable length of time, for aesthetic, agricultural, consumptive, or other uses. The water might never be discharged to a natural watercourse, but instead be consumed by plants, evaporation or infiltration into the ground. See “detention.”

25. “Sediment” is any particulate matter than can be transported by fluid flow, wind, glaciers or gravitational collapse.

26. “Sedimentation” is the deposition of eroded particles (sediment).
27. “Sewer” or “City sewer” means all pipes, culverts, channels, manholes, ditches and other structures, appurtenances, or courses, manmade or natural, forming a part of the storm and sanitary sewer systems of the City.

28. “Sidewalk” or “City sidewalk” means that portion of a public right-of-way in the City intended for use by pedestrians.

29. “Soil” includes dirt, sand, loam, gravel, rock and other naturally occurring surficial deposits overlying bedrock.

30. “Stabilization” means the prevention of soil particles from being dislodged and/or detached as provided for by a means of binding the soil surface in a manner customarily intended to prevent erosion. Seeding alone is not considered stabilization.

31. “Stormwater Management Agreement” means a legally recorded document, submitted and executed by the property owner and approved by the City Council which defines and describes the operation and maintenance of permanent, Stormwater Management Facilities designed for to address water quality and quantity and the person(s) or entity responsible for cost and completion of this work.

32. “Stormwater Management Design Plan” means a plan in compliance with Section 145.09 (2) (C).

33. “Stormwater Management Facility” means permanent structures and/or associated materials including but not limited to landscaping installed pursuant to an approved Stormwater Management Agreement, in accordance with Section 180.37, Subdivision Regulations, Storm Drainage Facilities.

34. “Stormwater Pollution Prevention Plan or SWPPP” is a site-specific, written document that is in compliance with Section 145.09 (2) (G) Grading Permit Contents and:

A. Identifies potential sources of stormwater pollution at the construction site in each phase of construction;
B. Describes practices to reduce pollutants in stormwater discharges from the construction site in each phase of construction;
C. Identifies procedures the operator will implement to comply with the terms and conditions of the NPDES General Permit no. 2 and this chapter;
D. Is kept up-to-date to reflect changes at the site;
E. Is included with a written log and documentation of required site inspections in compliance with NPDES General Permit no. 2, when associated with the same;
F. Is prepared and amended by a licensed professional engineer (if required by and in accordance with the Code of Iowa) or landscape architect or a professional in erosion and sediment control or a representative of the local Soil and Water Conservation District, credentialed in a manner acceptable to the City.

35. “Stormwater Runoff Control Plan” is a site-specific, written document that is in compliance with Section 145.09 (2) (H) Grading Permit Contents and:

A. Is required by the City on sites covered by a Grading Permit, but not required or no longer required to have an executed NPDES General Permit no. 2;
B. Illustrates all easements, setbacks, existing and proposed elevations (1-foot contours and spot elevations where required);

C. Identifies potential sources of stormwater pollution at the construction site in each phase of construction;

D. Describes practices to reduce pollutants in stormwater discharges from the construction site in each phase of construction;

E. Identifies procedures the operator will implement to comply with the terms and conditions of the Grading Permit;

F. Is kept up to date to reflect changes at the site, if required by the City;

G. Is prepared and amended by a licensed professional engineer (if required by and in accordance with the Code of Iowa) or landscape architect or a professional in erosion and sediment control or a representative of the local Soil and Water Conservation District, credentialed in a manner acceptable to the City.

36. “Stream” means perennial and intermittent watercourses identified through site inspection, and/or an approved City of Johnston Map, and/or the relevant United States Geological Survey (USGS) seven and one-half (7.5) minute series topographical map, and further defined and categorized as follows:

37. “Stream, Top of Bank” means the intersecting point between the stream channel and the break in the stream bank slope or the highest point of the stream channel (source: Polk County Zoning Ordinance).

38. “Stream, Buffer” means a vegetated strip of land which lies adjacent to a stream and provides such functions as protecting water quality, providing wildlife habitat and storing flood waters.

39. “Street” or “City Street” means all of a public street or thoroughfare in the City, including the unpaved portions of a public right-of-way generally referred to as “public parking” but exclusive of sidewalks.

40. “Topsoil” means the fertile, uppermost part of the soil containing significant organic matter largely devoid of debris and rocks and often disturbed in cultivation.

41. “Water Quality Volume (WQv)” means the storage needed to capture and treat the runoff from 90% of the average annual rainfall. In numerical terms, it is equivalent to the rainfall depth in inches (the 90% cumulative frequency rainfall depth) multiplied by the volumetric runoff coefficient (Rv) for the site, and the site drainage area.

42. “Waterway” means natural or manmade lakes, channels, rivers, streams, and creeks, which store and/or convey stormwater runoff.

43. “Work” includes the activities and results of land-disturbing activities.

145.05 NOTIFICATION.

1. The applicant shall notify the City in writing a minimum of five working days prior to any application to the IDNR for release of any property from a General Permit #2 pursuant to 567 IAC 64.6(b), or any similar successor provision.
2. The holder of the State NPDES General Permit #2 can transfer State NPDES General Permit #2 responsibility to homebuilders, new lot owners, contractors and subcontractors. Transferees must agree to the transfer in writing, and must agree to fulfill all obligations of the SWPPP, and the State NPDES General Permit #2. Absent such written confirmation of transfer of obligations, the developer remains responsible for compliance on any lot that has been sold.

3. The applicant shall be required to provide the following executed certification:

   Legal Description of Property: ________________________________

   Address of the Property: ________________________________

   ________________________________

   Print Name (applicant): ________________________________

   Address: ________________________________

   Telephone: ________________________________

   EMAIL address: ________________________________

   Print Name (owner, if different from applicant): ________________________________

   Address: ________________________________

   Telephone: ________________________________

   EMAIL address: ________________________________

Identify all of the following that apply:

   (1) “A State NPDES General Permit #2 is not required for this site.”

   (2) “A State NPDES General Permit #2 is required for this site.” The State NPDES General Permit #2 authorization number for this current permit is: ________________________________

   (3) “As owner of the subject property, I have not accepted a transfer of liability.”

   (4) “As owner of the subject property, I have accepted a transfer of liability and agreed to become the sole responsible permittee for storm water compliance, under the requirements of NPDES General Permit #2. Written evidence of this transfer will be provided to the City as part of this application.”

   (a) “The Storm Water Pollution Prevention Plan (SWPPP) which includes this property is the SWPPP related to this authorization number and has not been prepared separately.”

   (b) “The SWPPP for this property has been prepared separately, and a current copy will be provided to the City as part of this application. In addition, written evidence of continued compliance with the requirements of
NPDES General Permit #2, including but not limited to SWPPP updates and weekly inspection logs shall be provided to the City."

Signature of Applicant: ______________________________________________

Date: _______________________________________________________________________

Signature of Owner, if different from Applicant: _________________________________

Date: _______________________________________________________________________

4. Applicant’s failure to provide current information shall constitute a violation of this chapter.

145.06 GRADING PERMIT REQUIRED.

1. Unless excepted by the provisions of Section 145.08 of this chapter, it is unlawful for any person to grade, or cause to be graded, any property within the City unless the owner of such property or any agent responsible for the work holds a current and valid grading permit, issued by the Community Development Department, permitting such work to be done. Each day excavating persists in violation of this section shall constitute a new and separate violation of this chapter.

2. In instances where ground-disturbing activity is proposed and no NPDES General Permit #2 is required:
   A. The building permit application shall include a Stormwater Runoff Control Plan in compliance with Section 145.04.
   B. The intent of the Stormwater Runoff Control Plan is also to illustrate compliance with prior preliminary plat and construction plan approvals (subsection 2 above), any previous State NPDES General Permit #2 and this chapter. Prior to issuance of a certificate of occupancy, the City may require applicants to provide written certification that information included on the exhibit has been achieved.

   A. After review of the application and prior to issuance of a building permit, the City may require a Minimum Protection Elevation (MPE) to be assigned to the site and illustrated on the exhibit required in subsection 3 of this section. The lowest foundation opening must be protected to at least the MPE required by the City. In the case of openings protected by retaining walls, the MPE is measured at the top of the wall.
   B. Prior to issuance of a final certificate of occupancy, the City will require applicants whose sites include an MPE to provide written certification that the MPE has been achieved.

145.07 GRADING PERMIT NOT TRANSFERABLE. A grading permit issued under the provisions of this chapter shall not be transferable to another person or another property.

145.08 GRADING PERMIT EXCEPTIONS. Any language in this chapter to the contrary notwithstanding, a grading permit is not necessary when a land-disturbing activity is done:

1. In the furtherance of a farming or horticultural activity;
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2. By a public utility company for the purpose of installing otherwise approved utilities;

3. By the City or its employees or agents while engaged in the conduct of normal City activities;

4. By or under the direction of a soil engineer, geologist, or similar person in the investigation, testing or evaluation of earth materials in conjunction with the design or engineering of building, structures or other improvements;

5. By legitimate businesses engaged in the operation of sand or gravel pits, mining and extraction of raw materials or minerals, or like activities, provided that such business activities are otherwise in compliance with applicable law;

6. When not required by law or administrative rule to obtain a State NPDES General Permit #2, unless otherwise directed by the City.

Exceptions in this section apply only to the requirement that a grading permit be issued. Nothing in this section shall be deemed to be an exception to or a release from the responsibilities in the State NPDES General Permit #2, other City ordinances and any other requirement of State or Federal law or administrative rule.

145.09 GRADING PERMIT CONTENTS. Any person seeking a grading permit shall submit an application to the Community Development Department for approval. The City shall provide guidelines as appropriate for the preparation of documentation required for a permit application. The permit application must be accompanied by a grading plan prepared by a licensed engineer or land surveyor accurately documenting the extent of the proposed work to be done.

1. Application Contents. A grading permit application shall include a completed application form provided by the City and the information as outlined below:

   A. Name, address, and phone number of the property owner(s);
   
   B. Legal description of property to be covered by the permit;
   
   C. Street address or location of property to be covered by the permit;
   
   D. Name, address, and phone numbers of applicant;
   
   E. Name, address, and phone numbers of any persons who will be accomplishing work under the permit;
   
   F. Estimated date work is to commence;
   
   G. Estimated date work is to be completed;
   
   H. Description of work (type and extent) to be performed;
   
   I. Estimate of quantity of material to be excavated, filled or moved;
   
   J. Purpose of work to be performed;

2. Attachments. As attachments to the application form, the following shall be provided:

   A. A plan prepared by a licensed engineer or land surveyor showing the proposed work, the boundaries and dimensions of the property, the location of streets, sidewalks and sewers in the area of the property, and the actual location of the property where the proposed work is to occur;
B. Information on the property and other properties in the area sufficient to show existing topography, drainage patterns, existing facilities, existing vegetation and/or other natural features and drainage courses;

C. A Stormwater Management Design Plan and calculations prepared by a licensed engineer in compliance with Section 180.37 Storm Drainage Facilities that:

1. Provides on-site detention designed to reduce the release rate to the equivalent of a 5-year recurrence interval, 1-hour duration storm when the property was in an undeveloped state;

2. Considers on-site retention designed to infiltrate all or a portion of the Water Quality Volume, calculated at the point when the property was in an undeveloped state;

3. Considers water quality components and documents how they have been addressed in compliance with Section 145.02 Findings;

4. Considers water quantity components and documents how they have been addressed in compliance with Section 145.02 Findings, including but not limited to the Channel Protection Volume for downstream areas;

5. Considers best management practices, document design and management requirements for temporary and permanent facilities;

6. Documents all of the above and provides written explanation of the same;

7. Use of the Natural Resources Conservation Service WinTR-55 analysis (or approved equal) is required;

8. Provides a Stormwater Management Agreement for any permanent stormwater facility(s).

D. The methods and materials to be used to prevent erosion and control sediment on the site, consistent with Section 145.18, including the location of any and all silt fence and other best management practices;

E. Location of grading limit line where the total site exceeds the area to be disturbed;

F. If applicable or otherwise required by the City, an applicant in possession of a State NPDES General Permit #2 issued by the IDNR shall immediately submit to the City full copies of the materials described below as a basis for the City to determine whether to issue a City Permit:

1. Applicant’s plans, specifications and supporting materials previously submitted to the IDNR in support of applicant’s application for the State NPDES General Permit #2;

2. Applicant’s authorizations issued pursuant to applicant’s State NPDES General Permit #2.

G. If the applicant is required to maintain a State NPDES General Permit #2, then a Storm Water Pollution Prevention Plan (SWPPP) shall be
submitted. Every SWPPP submitted to the City in support of an application for a City Permit shall be in compliance with this chapter and:

(1) Comply with all current minimum mandatory requirements for SWPPPs promulgated by the IDNR in connection with issuance of a State NPDES General Permit #2.

(2) If the applicant is required by law to file a Joint Application Form, PROTECTING IOWA WATERS, IOWA DEPARTMENT OF NATURAL RESOURCES AND U.S. ARMY CORPS OF ENGINEERS, comply with all mandatory minimum requirements pertaining to such applications; and

(3) Comply with all other applicable State or Federal permit requirements in existence at the time of application; and

(4) Be prepared and amended by a licensed professional engineer (if required by and in accordance with the Code of Iowa) or landscape architect or a professional in erosion and sediment control or a representative of the local Soil and Water Conservation District, credentialed in a manner acceptable to the City; and

(5) Include within the SWPPP a signed and dated certification by the person preparing the SWPPP that the SWPPP complies with all requirements of this chapter and the applicant’s NPDES General Permit #2; and

(6) Include information regarding all phases of construction as planned, including but not limited to initial ground disturbing activity through final stabilization and completion of permanent facilities.

(7) As adopted via resolution by the Council, comply with the Statewide Urban Design and Specifications (SUDAS) standard design criteria, including but not limited to design, location, and phased implementation of effective, practicable storm water pollution prevention measures; and

(8) Limit total off-site annual aggregate sediment yield for exposed areas to an equivalent amount resulting from sheet and rill erosion equal to an annual, cumulative soil loss rate not to exceed the standard established from time to time by Soil and Water Conservation Districts; erosion rates can exceed soil loss limits as long as sediment yield does not exceed that expected from allowable erosion rates. If the applicant is not required to maintain a State NPDES General Permit #2, then a Stormwater Runoff Control Plan shall be submitted, in compliance with this chapter.

H. Either a Storm Water Pollution Prevention Plan (SWPPP) as associated with an NPDES General Permit #2 (where applicable) and/or a Stormwater Runoff Control Plan will be required by the City with each and every grading permit application.

I. For so long as a construction site is subject to a State NPDES General Permit #2 or a City Permit, the applicant shall provide the City with current information as follows:
(1) The name, address and telephone number of the person on site designated by the owner who is knowledgeable and experienced in erosion and sediment control and who will oversee compliance with the State NPDES General Permit #2 and the City Permit.

(2) The name, address and telephone number of the contractor and/or subcontractor that will implement each erosion and sediment control measure identified in the SWPPP.

J. An inventory of trees and existing vegetation in the disturbed area is required, showing:

(1) All existing trees of six-inch caliper (diameter) and larger within the area to be disturbed with species type, condition and location; and

(2) Identification and location of staked barrier fence at grading limit line to protect existing trees to remain. Trees outside the area to be disturbed shall be protected as required by this chapter.

K. Any other sketches, maps, studies, engineering reports, tests, profiles, cross-sections, construction plans and specifications the City may require to fully analyze the risk of erosion and the procedures available to prevent the same.

3. Upon receipt of an application for a City Permit and within 30 calendar days, the City shall find either that the application complies with this chapter and issue a City Permit in accordance with this chapter, or that the application fails to comply with this chapter, in which case the City shall provide a bill of particulars identifying non-compliant elements of the application.

145.10 GRADING PERMIT TERM. The term of a grading permit shall be 365 calendar days from its date of issuance except:

1. A grading permit shall expire 180 days after date of issuance, if permitted work has not then commenced.

2. A grading permit shall be considered void and no longer valid when the subject property is not in compliance with a State NPDES General Permit #2 and any other requirement of State or Federal law or administrative rule.

3. A grading permit shall be considered void and no longer valid under conditions prescribed in Section 145.17.

4. A grading permit may be renewed for a period not to exceed 365 calendar days, upon demonstration by the permit holder that circumstances or conditions require an extension of time in order to accomplish the work covered by the permit.

145.11 FEES. No grading permit shall be issued except after the payment of a grading permit fee to the City. Grading permit fees shall be established in accordance with a duly approved resolution.

145.12 REFUND OF FEES. A fee paid to the City for a grading permit may be refunded in accordance with the following conditions:
1. Ninety percent (90%) of the fee originally paid may be refunded upon written request of the permit holder, provided that work contemplated under the permit has not then commenced or will be commenced.

2. An amount not to exceed ninety percent (90%) of the fee originally paid may be refunded, upon written request of the permit holder, should work under the permit cease, provided that:
   A. A permit holder documents cause of cessation of work;
   B. All other provisions of this chapter have been complied with;
   C. The amount of any such refund is proportional to the amount of work then completed, as determined by the City.

3. No refund of fees paid shall be made in any case wherein the grading permit has been revoked as provided for in Section 145.17.

4. No refund of fees paid shall be made in cases where the fee was assessed for City staff and consultant costs, including but not limited to application, inspection, monitoring and enforcement responsibilities required to administer and enforce the Permit Program.

5. The City shall determine the amount of any refund.

145.13 GRADING PERMIT OR APPROVAL; CONDITIONS IMPOSED.

1. A grading permit or approval may be issued with certain conditions and requirements to be met or fulfilled by the permit holder preliminary to or as part of the proposed work. Such conditions and requirements shall be those determined to be necessary or advisable by the City, in order to limit or control erosion or sedimentation consistent with acceptable principles and the requirements of this Code of Ordinances. A pre-construction meeting may be required at a time and place to be arranged by the contractor.

2. During the course of the work, the City may impose other or additional conditions or requirements to be met or fulfilled by the permit holder to prevent or limit erosion or sedimentation. A written notice shall be made to the permit holder, or to the person designated by the permit holder to receive such notices, delivered in person or by certified mail, return receipt requested, to the address or addresses of the permit holder, or a designee, as listed on the excavation permit.

3. The City may waive, in writing, any condition or requirement imposed pursuant to this section, if such condition or requirement is no longer necessary or advisable to prevent or limit erosion.

145.14 CERTIFICATION REQUIRED. Prior to issuance of a certificate of occupancy where applicable, the applicant may be required to provide written certification to the City that the as-built elevations on the site are in compliance with the approved site plan, preliminary plat, construction plan, the exhibit required in Section 145.06(3) of this chapter or any other approved plan used to illustrate surface water flow on the site. The City may require any other sketches, maps, studies, engineering reports, tests, profiles, cross-sections, construction plans and specifications to fully analyze the risk of erosion and the procedures available to prevent the same.
145.15  WORK IN VIOLATION OF IMPOSED CONDITIONS. It is unlawful for any person to engage in any land-disturbing activity on any property in the City covered by a grading permit or approval in violation of such conditions and requirements as have been imposed pursuant to Section 145.13. Each day excavating, filling or other work persists in violation of this section shall constitute a new and separate violation of this chapter.

145.16  GRADING BOND REQUIRED. In addition to the requirements of this chapter, the City may require an approved applicant or a permit holder to file with the City a grading bond, in such amount as the City may deem necessary, based on the type and extent of work proposed, to assure that an approved applicant or a permit holder meets and fulfills those conditions and requirements imposed upon the applicant pursuant to this chapter. The grading bond will be in cash, cash equivalent, or letter of credit issued by a solvent surety, in a manner acceptable to the City.

145.17  GRADING APPROVAL; REVOCATION. The enforcement officer or other designated official of the City may suspend or revoke an approval under this chapter and order that all work stop for any one or all of the following reasons:

1. For violation or failure to comply with this chapter, State NPDES General Permit #2 and any other requirement of State or Federal law or administrative rule, the terms of the grading permit, the exhibit, the Storm Water Pollution Prevention Plan (SWPPP), or any conditions or requirements imposed therewith pursuant to Section 145.14.

2. For conducting or accomplishing permitted work in such a manner as to materially and adversely affect the health, welfare or safety of persons residing in, owning property in, or working in the neighborhood of the property where such work has occurred. This includes (and is not limited to) erosion caused by wind, where particulate material is visible in the air and determined by the City to be causing a nuisance or a hazard. If such determination is made, then the site shall be watered to minimize erosion in accordance with Section 145.18(10).

3. For conducting or accomplishing permitted work in a manner that is materially detrimental to the public welfare or injurious to the quality of soil and water resources or other property or improvements within the neighborhood or the City;

4. For violation or failure to comply with any provision of this chapter.

145.18  PRINCIPLES FOR EROSION AND SEDIMENT CONTROL. The following are principles which may be employed singly or in combination by an approved applicant or a permit holder, or which may be imposed on an approved applicant or a permit holder, pursuant to Section 145.13 for the accomplishment of work proposed. These principals must be in compliance with the State NPDES General Permit #2 requirements and this chapter.

1. The smallest practical area of land shall be exposed at any given time during development or work.

2. Such minimum area exposure shall be kept to as short a duration of time as is practical.

3. Temporary vegetation, mulching or other nonviable cover shall be used to protect areas exposed during development. Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any grading or other land disturbing
activities have ceased on any site or portion of a site and will not resume within fourteen (14) calendar days.

(Ord. 982–Nov. 17 Supp.)

4. Soil stockpiles shall be stabilized with vegetation or covered. Mowing may be required if the vegetation becomes a nuisance.

5. Best management practices (BMPs):
   A. Shall be illustrated accurately and updated on the approved Stormwater Pollution Prevention Plan (SWPPP) and/or the Stormwater Runoff Control Plan;
   B. Shall be installed and maintained to remove sediment from runoff waters from the development; and
   C. Shall be in compliance with this chapter.

6. Best Management Practices that are illustrated on the approved SWPPP or the Stormwater Runoff Control Plan and that are:
   A. Not in compliance with this chapter; and/or
   B. Not installed on the site; and/or
   C. Not installed correctly; and/or
   D. Not functioning as designed; and/or
   E. Not maintained as required;

are in violation of this chapter.

7. Permanent stabilization shall be initiated immediately but not exceeding fourteen (14) calendar days where final grading or land disturbing activity has been completed. All areas disturbed by the work shall be stabilized in compliance with this chapter, including but not limited to disturbance by the applicant or his agent on property not owned by the applicant. Replanting may be required to ensure adequate vegetative cover is established. Adequate vegetative cover is considered to be at least 70% density of 100% of the soil surface by the intended species. If native landscape is used, then at least 70% density of 100% of the soil surface by the cover crop is required.

(Ord. 982–Nov. 17 Supp.)

8. Storm sewer intakes, including but not limited to intakes in dedicated easements, in streets and public rights-of-way must be protected from sediment, properly and regularly maintained and function as designed. Furthermore, above grade protection in paved areas is not permitted, unless approved in writing by the City of Johnston prior to installation. Ponding of water as a result of this protection is a violation of this chapter.

   A. Washout facilities prevent runoff of concrete wash water which is alkaline and contains high levels of chromium and can increase the pH of area waters.
   B. The washout facility(s) must be served by a stabilized construction entrance and located on private property.
C. Concrete washout waste must be contained in washout areas. The washout areas shall contain the concrete and liquids when equipment is rinsed out after delivery.

D. Saw-cut slurry must be vacuumed or shoveled and removed from the site or disposed of in a concrete washout area.

E. Washout areas must be cleaned of all wastes and the soils stabilized after work has completed in a manner consistent with this chapter.

F. Washout areas that are not in compliance are in violation of this chapter.

(Ord. 982–Nov. 17 Supp.)

10. Actions during work shall relate to the topography and soils of the site so that the lowest potential for erosion is created.

11. Natural plant covering shall be retained and protected so far as is consistent with developing the site.

12. Work proposed shall take into consideration the seasonal limitations on construction scheduling such as wind, drought, winter thaw, snowmelt and rainfall which have an effect on soil erosion.

13. If material becomes airborne in such quantities and concentrations that it remains visible in the ambient air and/or is deposited beyond the premises where it originates, the requirements of the Polk County Board of Health Rules and Regulations may be imposed pursuant to Section 145.13 of this chapter.

14. A construction site entrance shall be designed to minimize tracking of sediment or other debris off the site. Any soils tracked from a site onto a public street shall be removed immediately or following direction from the City.

(Ord. 982–Nov. 17 Supp.)

15. Erosion and sediment controls reflecting perimeter control measures appropriate for the phase of construction must be in place prior to excavation. Inspection by the enforcement officer, including but not limited to the foundation, will not be scheduled until this work is in compliance.

145.19 PRINCIPLES FOR STORMWATER MANAGEMENT. The following are principles which may be employed singly or in combination by an approved applicant or a permit holder, or which may be imposed on an approved applicant or a permit holder, pursuant to Section 145.13 for the accomplishment of work proposed. These principals must be in compliance with the State NPDES General Permit #2 requirements and this chapter.

1. Best Management Practices shall be in compliance with Section 145.02.

2. Permanent, post-construction facilities shall be detailed in the Stormwater Management Design Plan and in compliance with Section 145.09(C).

3. Stream Buffer Width:

A. Type I Streams or Perennial Streams. The total required stream buffer width is one hundred (100) feet on each side perpendicular to the waterway measured from the outer wet edge of the channel during base flows. These streams are illustrated on a map approved by the City Council, established in accordance with a duly approved resolution.
B. Type II or Intermittent Streams. The total required stream buffer width is fifty (50) feet on each side perpendicular to the water way measured from the centerline of the channel. These streams are illustrated on a map approved by the City Council, established in accordance with a duly approved resolution.

C. Type III Streams are waterways and/or dry channels that have a contributing drainage area of fifty (50) acres or greater. The total required stream buffer width is thirty (30) feet on each side perpendicular to the waterway measured from the centerline of the waterway.

D. For waterways and/or dry channels with a contributing drainage area of less than 50 acres, the City may require additional sketches, maps, studies, engineering reports, tests, profiles, cross-sections, construction plans and specifications to fully analyze the risk of erosion and potential damage to water quality, and the procedures available to prevent the same.

E. If the area required for stream buffer width is owned by more than one property owner, this requirement shall be additive so the intent of this chapter is achieved.

4. Stream Buffer Composition:

A. This area shall be defined within a recorded easement, which includes a Management Plan.

B. Impervious surfaces, septic systems and all associated equipment are prohibited.

C. Dominant vegetation shall consist of existing, naturally regenerated, or seeded/planted native trees, shrubs, perennial grasses and forbs suited to the soil and hydrology of the site and the intended purpose. No single species shall make up more than 50% of the total number of species planted. Turfgrass (lawn) is not permitted.

D. Overland flow through the stream buffer area will be maintained as sheet flow.

E. The stream bank (the area between the stream channel and the break in the stream bank slope or the highest point of the stream channel) is included in the stream buffer area and must also be stabilized, unless noted otherwise on a plan approved by the City.

F. Stabilization of the stream buffer shall be in compliance with Section 145.18.

145.20 PRELIMINARY INSPECTION REQUIREMENTS.

1. All inspections required under this chapter shall be conducted by a representative of the City, herein referred to as the “enforcement officer.” Inspections by the enforcement officer may be scheduled or unannounced.

2. In accordance with Section 145.18 and Section 145.19 and in compliance with the applicant’s SWPPP and/or Stormwater Runoff Control Plan, applicant shall notify the City when control measures have been accomplished on-site, whereupon the City shall conduct an initial inspection for the purpose of determining compliance with this chapter. Results of the inspection (hereinafter referred to as the “City inspection log”)
shall be kept, in writing, by the enforcement officer as required by and in compliance with the City’s MS4 Permit.

3. A copy of the City’s inspection log will be provided upon request.

4. Construction shall not occur on the site at any time when there is failure to implement or maintain pollution control best management practices, when a site is not in compliance with the applicant’s SWPPP, Stormwater Runoff Control Plan or when a stop work order has been issued, in accordance with Section 145.21 of this chapter.

5. Construction activities undertaken by an applicant prior to resolution of all discrepancies shall constitute a violation of this chapter.

6. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions undetected by inspection.

145.21 STOP WORK ORDER.

1. Authority. Whenever the enforcement officer finds any work regulated by this chapter being performed in a manner either contrary to the provisions of this chapter or dangerous or unsafe, the enforcement officer is authorized to issue a stop work order.

2. Issuance. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner’s agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order, and the conditions under which the cited work will be permitted to resume.

3. Unlawful Continuance. Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be in violation of this chapter.

145.22 NUISANCE. Failure to maintain Stormwater Management Facilities in violation of this chapter and/or the approved Stormwater Management Agreement, and/or an executed easement(s) shall be deemed to constitute a nuisance, in accordance with Chapter 50, Nuisance Abatement Procedure.

145.23 MONITORING PROCEDURES.

1. Upon issuance of a City Permit, an applicant has an absolute duty to monitor site conditions and to report to the enforcement officer any change of circumstances or site conditions which the applicant knows or should know pose a risk of storm water discharge in a manner inconsistent with applicant’s SWPPP, Stormwater Runoff Control Plan, State NPDES General Permit #2 and/or City Permit.

2. Such report shall be made by the applicant to the enforcement officer immediately but in any event within 24 hours of the change of circumstances or site conditions.

3. Failure to make a timely report shall constitute a violation of this chapter.

4. Failure to install and maintain the Best Management Practices included on the applicant’s approved SWPPP and/or Stormwater Runoff Control Plan shall constitute a violation of this chapter.
5. Any third party may also report to the City site conditions which the third party reasonably believes pose a risk of storm water discharge in a manner inconsistent with applicant’s SWPPP, State NPDES General Permit #2 and/or City Permit.

6. Upon receiving a report pursuant to the previous subsections, the enforcement officer shall conduct an inspection of the site as soon as reasonably possible. Results of the inspection shall be kept, in writing, by the enforcement officer as required by and in accordance with the City’s MS4 Permit. A copy of this log shall be provided to the applicant upon request. The applicant shall immediately commence corrective action, as required by and in accordance with State NPDES General Permit #2 requirements and this chapter. Failure to take corrective action within 7 days from the date of notification shall constitute a violation of this chapter.

7. Unless a report is made to the enforcement officer pursuant to the previous subsections, the enforcement officer shall conduct unannounced inspections and quarterly inspections, as required by and in accordance with the City’s MS4 Permit, during the course of construction to monitor compliance with the State NPDES General Permit #2 and any City Permits. If the inspection discloses any significant noncompliance, the results of the inspection shall be kept, in writing, by the enforcement officer in the log. A copy of this log shall be provided to the applicant upon request. The applicant shall immediately commence corrective action, as required by and in accordance with State NPDES General Permit #2 requirements and this chapter. Failure to take corrective action within 7 days from the date of notification shall constitute a violation of this chapter.

8. The City shall not be responsible for the direct or indirect consequences to the applicant or to third parties for noncompliant conditions undetected by inspection.

9. Prior to issuance of a certificate of occupancy for sites covered by a NPDES General Permit #2, the City shall receive verification from an unrelated third party describing the material type, and quantity on site as related to the preservation of topsoil required by the General Permit #2. Final topsoil depth shall be measured by properly qualified personnel, who regularly conduct soils analysis as part of their normal job duties and in accordance with standard engineering practices and ASTM D2488.

(Ord. 898 – June 15 Supp.)

145.24 UNAUTHORIZED REMOVAL OF TREES.

1. All trees and shrubs that are included on an approved site plan or plat and required for compliance with this chapter must be maintained. Material that has died or been removed shall be replaced as originally required, within the same growing season.

2. All trees that have been cleared in violation of this chapter shall be replaced, including trees smaller than 6-inch caliper (diameter).

3. If possible, cleared trees are to be replaced by trees of equal size, species, quality and caliper. Some species are not acceptable due to physical characteristics and therefore would not be replaced with the same type. Species type shall be in compliance with Section 150.02 of this Code of Ordinances and approved by City staff prior to installation.
4. If replacement of equal size, quality and caliper is not possible, replacement is to be in accordance with the following criteria:

<table>
<thead>
<tr>
<th>Each Existing Deciduous Tree</th>
<th>Replacement Quantity</th>
<th>Replacement Size and Condition**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 6-inch caliper</td>
<td>*</td>
<td>2-inch caliper</td>
</tr>
<tr>
<td>6-inch to 10-inch caliper</td>
<td>5</td>
<td>2-inch caliper</td>
</tr>
<tr>
<td>&gt; 10-inch to 12-inch caliper</td>
<td>6</td>
<td>2-inch caliper</td>
</tr>
<tr>
<td>&gt; 12-inch to 18-inch caliper</td>
<td>9</td>
<td>2-inch caliper</td>
</tr>
<tr>
<td>&gt; 18-inch to 24-inch caliper</td>
<td>12</td>
<td>2-inch caliper</td>
</tr>
<tr>
<td>&gt; 24-inch caliper</td>
<td>*</td>
<td>2-inch caliper</td>
</tr>
</tbody>
</table>

*To be determined by the City, based on the size removed.
**Condition for all replacements to be container or balled & burlapped.

<table>
<thead>
<tr>
<th>Each Existing Evergreen Tree</th>
<th>Replacement Quantity</th>
<th>Replacement Size and Condition**</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 4-foot height</td>
<td>*</td>
<td>4-foot height</td>
</tr>
<tr>
<td>4-foot to 6-foot height</td>
<td>5</td>
<td>4-foot height</td>
</tr>
<tr>
<td>&gt; 6-foot to 12-foot height</td>
<td>6</td>
<td>4-foot height</td>
</tr>
<tr>
<td>&gt; 12-foot to 16-foot height</td>
<td>9</td>
<td>4-foot height</td>
</tr>
<tr>
<td>&gt; 16-foot to 20-foot height</td>
<td>12</td>
<td>4-foot height</td>
</tr>
<tr>
<td>&gt; 20-foot height</td>
<td>*</td>
<td>4-foot height</td>
</tr>
</tbody>
</table>

*To be determined by the City, based on the size removed.
**Condition for all replacements to be balled & burlapped.

5. If it is impractical to locate all of the trees required for replacement on a particular property, plat or site plan, some of the replacement trees may be planted on public or private property as directed by the Council.

6. Maintenance of replaced trees is required as part of this chapter. If any landscape materials required for replacement or shown on an approved plan are neglected, become diseased, substantially damaged or die at any time after approval was granted, the owner of the property shall replace the materials in the next appropriate growing season, to bring the property back into compliance.

7. If trees were removed in violation of this chapter and without an inventory, an estimate of destroyed material will be made using available aerial photography and evidence on the site. The replacement penalty will be calculated by the City using this estimate.

8. An existing tree is exempted if it would impose a documented hazard to the public health, safety and welfare.

9. An individual single family and/or duplex land use would be exempted, unless a grading permit, site plan or plat is required.

145.25 APPEAL.

1. Any person aggrieved by an order, requirement, decision or determination of the enforcement officer in the enforcement of this chapter may, within thirty (30) calendar days thereof, appeal such action to the Board of Appeals by filing with the Board of Appeals an appeal specifying the grounds thereof. The enforcement officer
or other designated official of the City shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from is taken.

2. Before an appeal is filed with the Board of Appeals, the appellant shall pay to the City a fee in accordance with a duly approved resolution.

3. Upon receipt of such an appeal, and payment of the fee, the Board of Appeals or its designated representative shall establish a date, time and place for a public hearing on the appeal and shall cause the preparation, publication, posting and distribution of a public notice of said hearing.

4. The public hearing shall be attended by the appellant or his agent, and by the enforcement officer or other designated official of the City.

5. The Board of Appeals may modify, reverse or affirm, wholly or partly, the order, requirement, decision or determination appealed from. It shall not have the power to grant exceptions or variances to the requirements of this chapter.

6. A majority vote of the members of the Board of Appeals present at the hearing shall be necessary to reverse any order, requirement, decision or determination appealed from.

145.26 RESPONSIBILITY. The failure of City officials to observe or foresee hazardous or unsightly conditions, or to impose other additional conditions or requirements on approved applicants or permit holders, or to deny or revoke a grading permit or approval, or to stop work in violation of this chapter, shall not relieve the property owners, approved applicants or permit holders of the consequences of their actions or inactions or result in the City, its officers or agents, being liable therefore, or on account thereof.

(Ch. 145 – Ord. 775 – Feb. 08 Supp.)
CHAPTER 148
SWIMMING POOL AND SPA CODE

148.01 PURPOSE.

1. It is the purpose of this chapter to require architects, builders, contractors, property owners, their agents and others, to meet their responsibilities with respect to proper construction, construction techniques, and premises safety and to provide for inspection as a means of compelling compliance therewith. It is not the purpose or intent of this chapter to create any duty on the part of the city, its offices, agents or employees, owing to any individual member of the public or to protect any particular or circumscribed class of persons.

2. Warning. No person shall place reliance upon this chapter, any inspections performed or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use or occupancy of any premises. A certification that a premises has been inspected pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of that premises.

148.02 INTERNATIONAL SWIMMING POOL AND SPA CODE ADOPTED. The 2015 Edition of the International Swimming Pool and Spa Code (ISPSC) and its Appendix B is hereby adopted, except as provided in this chapter, and shall be known as the “Johnston Pool/Spa Code”. Copies of the International Swimming Pool and Spa Code 2015 edition are on file in the office of the City Clerk. Exceptions to this code shall be as set out in this chapter.

148.03 DELETIONS, MODIFICATIONS AND/OR AMENDMENTS. The following deletions, modifications and/or amendments are made to the International Swimming Pool and Spa Code 2015 Edition (hereinafter known as the ISPSC) as published by the International Code Council.

1. Section 101.1 Title is hereby amended by inserting City of Johnston into [NAME OF JURISDICTION] thereof.

2. Section 105.6.2 Fee Schedule shall be modified by referring to the fee schedule located in Chapter 155 Building Code.

3. Section 105.6.3 Fee refunds is modified by inserting 80% into [Specify Percentage] in subparagraphs 2 and 3 thereof.

4. Section 107.4 Violation penalties is modified by deleting the whole paragraph and inserting the following paragraph thereto:

“Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install,
alter or repair a pool, hot tub or spa in violation of the approved construction documents or directive of the Building Official, shall be guilty of failure to comply with this chapter and can be charged double the permit fee as allowed by Chapter 155 or as a municipal infraction and shall be fined according to Chapter 3 of the Johnston Code of Ordinances.”

5. Section 107.5 Stop work orders is hereby modified by deleting “shall be liable to a fine of not less than [AMOUNT] dollars or more than [AMOUNT] dollars” and inserting the following sentence thereto:

“Failure to comply with a Stop Work order is considered a municipal infraction and shall be fined according to Chapter 3 of the Johnston Code of Ordinances.”

6. Section 305.1 General is modified by deleting the exceptions thereof and inserting the following sentence thereto:

“Exception: A barrier may be omitted at the discretion of the Building Official when a pool, hot tub or spa is provided with a safety cover complying with ASTM F 1346.”

7. Section 305.2.1 Barrier height and clearances is modified by deleting all references to “48 inches” and replacing all such references to “6 feet.”

8. Section 305.5 On ground residential pool structure as a barrier is modified by deleting all references to “48 inches” in sub-paragraphs 1 and 2 and replacing all such references to “6 feet.”

(Ch. 148 - Ord. 970 – Nov. 17 Supp.)

[The next page is 851]
CHAPTER 150

TREES

150.01 Definitions. Following are definitions as they pertain to this chapter.

3. “Parking area” means that part of the public street right-of-way lying between the sidewalk line or right-of-way line and the curb line, edge of pavement or edge of traveled way.

4. “Street tree” means any approved tree which is located behind the back of curb and within the public right-of-way.

150.02 Street Tree Planting Standards. The following standards shall govern the planting of street trees and other landscaping materials. These standards are established by the National Arbor Day Foundation and recommended by the Johnston Tree Board.

1. No landscaping material may be planted which would cause a public danger or nuisance.

2. No tree shall be planted nearer than three feet to the sidewalk line or other impervious surface such as the curb and gutter line of the street.

3. No street tree or shrub that will grow above 30 inches in height shall be planted on a corner lot where two streets intersect for a distance of 25 feet in any direction from the point of intersection at the curb line.

4. No street tree shall be planted within 15 lateral feet of an overhead utility line, three lateral feet from any buried utility, ten feet of a fire hydrant, five feet from a driveway or 25 feet from a traffic control sign.

5. A permit must be obtained prior to planting any street tree or landscape material in the public right-of-way (please refer to Chapter 141 for more information on right-of-way work). City staff will assist with the selection of tree species if the site meets all requirements. This permit can be obtained at the Public Works office.

6. In cases of damaged or non-working utilities, any tree or landscape material planted in the right-of-way may be trimmed or even removed to repair the utility.

150.03 Duty To Trim Trees. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 14 feet above the surface of the street and eight feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])
150.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 150.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

150.05 DISEASE CONTROL. (Repealed by Ord. 794 – Apr. 09 Supp.)

150.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within 14 days of said notification. If such owner, occupant or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property. Failure to perform the duty required by this subsection is a municipal infraction punishable by the following penalties: First offense – not to exceed $750.00; each repeat offense – not to exceed $1,000.00.

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

(Ord. 794 – Apr. 09 Supp.)

150.07 TREE TOPPING PROHIBITED. It is unlawful as a normal practice for any person or City department to top any street tree, park tree or other tree on public property. Topping is defined as the severe cutting back of limbs to stubs within the tree’s crown to such a degree so as to remove the normal canopy and disfigure the tree.

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CHAPTER 151

TREE PROTECTION AND CONSERVATION

151.01  INTENT. The intent of this chapter is to:

1. Promote the public health, safety and general welfare.
2. Further the goals of the Johnston Comprehensive Plan.
3. Reduce noise, heat and glare.
4. Prevent soil erosion and control sediment.†
5. Improve surface drainage and minimize flooding.
6. Encourage and enhance a civic identity.
7. Enhance real estate and economic values.
8. Encourage and promote the protection, preservation, management and enhancement of the urban forest and the natural environment. This includes but is not limited to: increasing species and age diversity to provide long-term urban forest stability, providing sufficient tree planting to keep pace with urban growth and offset tree removal, and increasing the proportion of large-size trees in the urban forest for greater canopy effects.
9. Encourage a thoughtful approach to the development and alteration of land.
10. Create a registry of Heritage Trees in the City of Johnston, and to regulate their protection.
11. Provide ground and surface water stabilization. The removal of trees will substantially alter the water table adversely with regard to water assimilation by vegetation, transpiration, and the interception of solar radiation as it affects the evaporation potential of associated soils and bodies of water.
12. Improve water quality and/or aquifer recharge. The removal of trees will substantially lessen the ability for the natural assimilation of nutrients, chemical pollutants, heavy metals, silt and other noxious substance from ground and surface waters.
13. Minimize ecological impacts. The removal of trees will have a substantial adverse impact upon existing biological and ecological systems, microclimatic conditions which directly affect these systems, or such removals will create conditions which may adversely affect the dynamic equilibrium of associated systems.

† EDITOR’S NOTE: See also Chapter 145, Erosion and Sediment Control.
14. Minimize noise pollution. The removal of trees will significantly increase ambient noise levels to the degree that a nuisance is anticipated to occur or that a violation of the City’s noise control ordinance is anticipated to occur.

15. Minimize excess air movement. The removal of trees will significantly reduce the ability of the existing vegetation to reduce wind velocities to the degree that a nuisance is anticipated to occur.

16. Improve air quality. The removal of trees will significantly affect the natural clearing of the atmosphere by vegetation through particulate matter interception; the ingestion of oxygen released to the atmosphere as a by-product of photosynthesis.

17. Provide wildlife habitat. The removal of trees will significantly reduce available habitat for wildlife existence and reproduction or result in the emigration of wildlife from adjacent or associated ecosystems.

18. Minimize aesthetic degradation. The removal of trees will have an adverse effect on property values in the neighborhood where the applicant's property is located and other existing vegetation in the vicinity.

19. Preserve exceptional trees and to preserve, protect and restore the tree canopy in the City.

20. Preserve the character of neighborhoods.

21. Protect the aesthetic conditions of the City.

22. Improve the appearance of the City’s environment and the quality of City life.

151.02 DEFINITIONS.

1. “Caliper” means trunk diameter, measured in inches. In established single-stem trees, this measurement is taken at 4.5 feet above grade (diameter at breast height or DBH). For trees with low branches or more than one main stem, the measurement is taken at the point above grade where the multiple branches begin (usually lower than DBH), and a note is made of this unique condition. This measurement is taken across the stump if the tree has been severed.

2. “Clearing” or “cleared” means any intentional, unintentional or negligent act that results in the cutting, removal of all or a substantial part of, or damage to a tree or other vegetation that will cause the tree or other vegetation to decline and/or die. (See also definition given in Section 145.03(4) of this Code of Ordinances.

3. “Established trees” means healthy, vigorous trees that have been growing in place for at least two years, and are capable of sustaining themselves.

4. “Heritage tree means an established tree or group of established trees within the Johnston City limits identified for special consideration and protection by the property owner, having significant, unique characteristics of size, species, historic, or other civic or public value. The trees may or may not be large enough to be already included as protected trees. The heritage trees shall be identified by City Council Resolution, and protected by a restricted covenant.

5. “Horticultural activity” means the cultivation of a garden, landscape installation, and maintenance activities of an occupied, single-family dwelling, duplex or townhouse property by the owner of the property. It also includes the commercial operation of an orchard or landscape nursery and the regular, planned maintenance activities on properties owned by the City.
6. “Protected trees” means all established trees within the Johnston City limits having a caliper (diameter) of six-inches or larger.

7. “Registry” means a list of trees or groups of trees designated as “heritage trees” by the City Council.

8. “Urban forest” means the biotic elements of the community, including trees and other vegetation, the soils, air and water that support them. Biotic elements are related to life or living organisms; they are produced or caused by living organisms.

151.03 EXEMPTIONS FOR PROTECTED TREES. Property owners involved in horticultural activity are exempt from the provisions of this chapter, unless the protected trees are included in an approved site plan or plat.

151.04 DESIGNATION OF PROTECTED TREES. Trees defined as “protected” under this chapter are automatically protected, and do not require a nomination process. Clearing of protected trees is a violation of this chapter.

151.05 DESIGNATION OF HERITAGE TREES.

1. Nomination of a tree as a heritage tree or a group of trees as heritage trees shall be made by the owners with controlling interest in the property where the trees are located.

2. A nomination of heritage trees shall include:
   A. Description of nominated tree or trees, including species and condition.
   B. Estimated size if possible, including caliper and height.
   C. Location of trees to be nominated, including property address and or legal description.
   D. Sketch plan or aerial photograph, illustrating the location of the nominated trees.
   E. Photographs, if possible, of the nominated trees.
   F. Reason for the nomination: significant, unique characteristics of size, species, historic, or other civic or public value.
   G. Restricted Covenant, to be approved by the City Council, recorded and filed. The Restricted Covenant shall meet the intent of Section 151.09.

3. Nominations shall be in writing and shall be submitted to the Community Development Department, City of Johnston. The adjacent property owner shall also be notified in writing if the trees under consideration are within 5 feet of a shared property line.

4. On the date that a nomination for “heritage tree” status is received by the Community Development Department of the City, the tree or trees are considered to have temporary heritage tree status and protection unless or until directed otherwise by the City Council. This temporary heritage tree status is intended to prohibit willful damage or destruction of the trees during the review process. Clearing of heritage trees is a violation of this chapter.
5. Within sixty (60) days of receipt of a nomination for “heritage tree” status, the Tree Board shall hold a public meeting at which time the nomination is considered. After the public meeting, the Tree Board shall forward its recommendation to the City Council either for denial, approval or modification of the nomination. If the Tree Board recommends approval of a tree for “heritage tree” status, such recommendation shall include a finding indicating how such approval would further one or more of the interests set out in Section 151.01 of this chapter.

6. Within sixty (60) days of receipt of a recommendation from the Tree Board, the City Council shall hold a public meeting at which time the nomination and the recommendation from the Tree Board shall be considered. After the public meeting, the City Council shall either approve or deny the nomination in whole or in part. If the nomination is approved, the City Council shall include a finding indicating how such approval would further one or more of the interests set out in Section 151.01.

7. If adequate information is not available and a review of the application is not possible, the Tree Board and/or the City Council may choose to table a nomination until such time that a review of the application is possible.

8. If the nomination is approved in whole or in part, the tree or trees receiving approval shall, by Resolution, be added to the City of Johnston’s Registry of Heritage Trees.

9. If the nomination is approved in whole or in part, the property owner shall provide an executed copy of the approved Restricted Covenant to City staff. The Restricted Covenant shall include the protection requirements in Section 151.09, and shall be null and void when and if heritage tree status is revoked. The Restricted Covenant shall describe a protected area around the trees to be a minimum 25-foot radius (measured from the trunk), unless existing site constraints are noted and identified.

10. Upon receipt of the executed Restricted Covenant, the City shall provide a plaque (design determined by the City Council) to the property owner, for documentation and on-site display.

151.06 REVOCATION OF PROTECTED OR HERITAGE TREE STATUS.

1. Protected tree status may be revoked by the City Council, with the approval of a site plan or plat. When the application of a building permit, demolition permit or grading permit requires the removal of protected trees, City Council approval may be required at the discretion of the Community Development Director, if it is determined that the removal of the protected trees does not meet the intent of this chapter and/or Chapter 145, Erosion and Sediment Control.

2. Heritage Tree status may be revoked at the sole discretion of the City Council, after receipt of a recommendation by the Tree Board. Submittal and review requirements are the same as for the original nomination. When status is revoked, the Restricted Covenant also becomes null and void.

3. The following are criteria for revocation:
   A. Trees that are hazardous, as certified in writing by a registered forester or certified arborist.
   B. Diseased or infectious trees and trees in decline as certified in writing by a registered forester or certified arborist.
C. Trees that have died as a result of natural causes.
D. Trees or their root systems causing damage to structures and or areas used for pedestrians, vehicular movement, or underground utility lines, as certified in writing by a structural engineer.
E. Trees within power line easements that cannot be properly pruned.
F. Trees, after proper pruning, which cause safety-related problems.
G. Trees to be removed, cut or disturbed that are included and noted on site plans approved by the City Council.
H. Trees that are determined to be an undesirable species (Cottonwood, Box Elder, Buckthorn, Silver Maple and Mulberry) and are unsuitable due to their shape, condition, durability, hardiness or root characteristics.

151.07 REGISTRY OF HERITAGE TREES. All trees designated as heritage trees shall be contained in a Registry of Heritage Trees adopted by Resolution of the City Council and made available to the public in the office of the City Clerk.

151.08 CREDIT FOR PRESERVING AND PROTECTING TREES.

1. The City Council encourages the continued presence of existing trees and recognizes that thoughtful planning is sometimes required to do so. Therefore, a credit of twice the landscape requirements (as specified in Section 17.30.030 of the Zoning Ordinance) shall be granted, measured in caliper inches, for any protected tree and/or heritage tree present and preserved on a specific site.

2. Established trees that do not qualify as protected trees (smaller than 6-inch diameter) and that are preserved on a site may be credited toward fulfillment of the landscaping requirements, in accordance with Section 17.30.030 of the Zoning Ordinance. The credit is equal, for example: one tree for one tree.

3. The credit cannot be applied toward trees required for buffer areas. The intent of Chapter 17.50, Buffer Requirements, in the Zoning Ordinance remains in full force and effect.

151.09 PROTECTION REQUIREMENTS.

1. Both protected trees and heritage trees are covered by the requirements in this section. Heritage trees have the additional protection of a City Council Resolution for nomination, a Restricted Covenant protecting described property around them and the requirement that they be pruned (as necessary) by a registered forester or certified arborist.

2. The City may require that a property be rezoned and developed as a Planned Unit Development (PUD) to utilize flexible development standards and preserve trees wherever possible. Preservation may also require (but is not limited to) grouping of buildings, parking areas, retention/detention areas, or green spaces.

3. An approved development plan shall include the identification of all protected trees to be removed and to remain, and all heritage trees. It shall also include the location of a temporary protective, staked barrier fence. This fence shall be installed as defined in the Restricted Covenant (heritage trees), or in a minimum 25-foot radius (protected trees), measured from the trunk.
4. If the development constraints do not allow a complete 25-foot radius for protected trees, the City Council may approve a smaller area. In no case shall the distance be less than 15 feet from the trunk, and no more than 50% of the root system shall be disturbed. Once the development, construction and grading contemplated by an approved site plan is complete, the temporary protective fence can be removed.

5. Within the protected area, as established in subsection 3 and 4 of this section (whether a temporary fence is in place or not), the following prohibited acts shall include but not be limited to:
   A. Damage inflicted upon the root system.
   B. The application of substances toxic to trees and other vegetation.
   C. The operation of equipment and vehicles.
   D. The storage of temporary structures and materials, including materials used for building and construction.
   E. The changing of the natural grade due to the unapproved alteration of natural physical conditions.

6. Root pruning shall be required where the protected area associated with the trees is adjacent to a disturbed area of lower elevation. Careful cutting prevents torn roots and will produce a flush of new growth. The chances of rot entering the root system are reduced.

7. Maintenance pruning of heritage trees, when required, shall be completed by a registered forester or certified arborist.

8. When approved development plans include the installation of utilities that cannot be routed around the protected area, boring of utilities shall be required, at a minimum depth of 4 feet below undisturbed grade. Since most of the root system is located above this depth, the intent is to enhance survival of the trees.

151.10 REPLACEMENT REQUIREMENTS.

1. All protected and heritage trees shall be maintained and protected in accordance with the requirements of this chapter and Chapter 145, *Erosion and Sediment Control*.

2. In addition to any other applicable penalties, protected trees that have been cleared, damaged or removed in violation of this chapter shall be replaced in accordance with and at three times the quantity specified in Section 145.23 of this Code of Ordinances.

3. In addition to any applicable fines, heritage trees that have been cleared, damaged or removed in violation of this chapter shall be replaced in accordance with and at three times the quantity specified in Section 145.23 of this Code of Ordinances. The Restricted Covenant remains in full force and effect.

4. If a violation of this chapter has occurred, the replacement requirements contained in this section, including a date of completion, shall be documented in an “Agreement to Complete Improvements” with a Performance Bond to cover the same. Review and approval of these documents by the City Council shall be required prior to issuance of a temporary Occupancy Permit.
5. At such time that the “Agreement to Complete Improvements” is fulfilled, a “Satisfaction of the Agreement to Complete Improvements” shall be reviewed and approved by the City Council, and the Bond released. A final certificate of occupancy shall not be issued until the “Satisfaction of the Agreement to Complete Improvements” has been approved.

6. If the improvements are not completed as set forth in the Agreement, the temporary Occupancy Permit may be withdrawn, and/or the Bond exercised.

7. If it is impractical to locate all of the replacement trees on a particular property, plat or site plan, some of the replacement trees may be planted on public property, as directed by the City Council.

151.11 APPEAL. Any person aggrieved by an order, requirement, decision or determination in the enforcement of this chapter may, within thirty (30) calendar days thereof, make an appeal in writing of such action to the Tree Board and the City Council. The process shall be the same as for nomination of a heritage tree (see Section 151.05).

151.12 VIOLATION. A violation of any provision of this chapter shall constitute a simple misdemeanor for each tree cleared, damaged or removed. In the alternative, any person who violates any of the provisions of this chapter shall be guilty of a municipal infraction and each tree that is destroyed or damaged shall constitute a repeat offense. This chapter is not intended to create any private rights or private remedies on behalf of any person and shall not be construed to govern the relationship or duties between private individuals or entities. This chapter shall not create any private cause of action enforceable by any person in a court or law.
[The next page is 875]
CHAPTER 152
MANUFACTURED AND MOBILE HOMES

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

(Code of Iowa, Sec. 435.1)

1. “Manufactured home” means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

2. “Manufactured home community” means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.

3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

4. “Mobile home park” means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term “manufactured home community” or “mobile home park” is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

152.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer’s Stock. Mobile homes or manufactured homes on private property as part of a retailer’s or a manufacturer’s stock not used as a place for human habitation.
2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

152.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)
CHAPTER 153

RESIDENTIAL RENTAL CODE

153.01 Purpose
153.02 Code Reference
153.03 Definitions
153.04 Fees
153.05 Enforcement
153.06 Certificates Required
153.07 Rental Inspection
153.08 Right of Entry
153.09 Occupancy Violations
153.10 Expiration
153.11 Suspension or Revocation
153.12 Eviction
153.13 Government Exempt
153.14 Violation - Penalty

153.01 PURPOSE.

1. In compliance with Chapter 364.17 of the Iowa Code, it is the purpose of this chapter to require property owners, their agents and others who rent residential dwelling/sleeping units to meet their responsibilities with respect to premise safety and to provide for inspection as a means of compelling compliance therewith. It is not the purpose of this chapter to create any duty on the part of the City, its officers, agents or employees, owing to any individual member of the public or to protect any particular or circumscribed class of persons. Specifically, it is not the intent of this chapter to create any duty or liability by the City, its officers, agents or employees, to premises’ occupants, owners, tenants or any other person.

2. No person shall place reliance upon this chapter, any inspections performed or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use of occupancy of any premises. A certification that the premises have been inspected pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of the premises.

153.02 CODE REFERENCE.

1. Building Codes Referenced. The International Residential Code, (Chapter 155); National Electric Code, (Chapter 157); International Plumbing Code, (Chapter 156); International Mechanical Code, (Chapter 158); and International Property Maintenance Code, (Chapter 161) as adopted at the time of inspection are applicable as references for requirements, location, and maintenance of building elements needed to provide structural, fire, and building safety for occupants unless otherwise stated in this chapter.

2. All Property Maintenance aspects shall be referred to Chapter 161, of the Johnston Property Maintenance Code as adopted.

3. Public Health. Those nuisances and/or public health conditions not addressed by other chapters of the Johnston Code of Ordinances shall be governed and regulated by the Polk County Department of Health.

(Ord. 962 – Nov. 17 Supp.)

153.03 DEFINITIONS. For the purposes of this chapter the following definitions shall apply:
1. Apartment House is any building or portion thereof that contains three or more Rental Dwelling Units, and for the purpose of this code, includes residential Condominiums and Townhomes.

2. Rental Dwelling Unit(s) is any building or portion thereof that contains living facilities, including provisions for sleeping, eating, cooking and sanitation as required by this code and rented for monetary compensation.

3. Congregate Residence is any building or portion thereof that contains facilities for living, sleeping and sanitation, as required by this code, and may include facilities for eating and cooking, for occupancy by other than a family. A congregate residence may be a shelter, convent, monastery, dormitory, fraternity or sorority house, but does not include jails, hospitals, nursing homes or lodging houses.

(Ord. 962 – Nov. 17 Supp.)

153.04 FEES. All fees associated with residential rental inspection shall be based on the following table. This table shall be amended by resolution by the Johnston City Council. Insert Table 153.04(1)* therein.

Table 153.04(1)*

<table>
<thead>
<tr>
<th>Rental Inspection Fee Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Apartment House</strong> - $50.00 per structure plus $15.00 per dwelling unit</td>
</tr>
<tr>
<td><strong>Congregate Residential</strong> - $50.00 per structure plus $4.00 per sleeping room</td>
</tr>
<tr>
<td><strong>Condos Individual Owner</strong> - $50.00 per dwelling unit</td>
</tr>
<tr>
<td><strong>Condos Single Building Owner</strong> - $50.00 per structure plus $15.00 per dwelling unit</td>
</tr>
<tr>
<td><strong>Duplex</strong> - $50.00 per structure plus $15.00 per dwelling unit</td>
</tr>
<tr>
<td><strong>Single Family Home</strong> - $50.00 per dwelling</td>
</tr>
<tr>
<td><strong>Townhouse Individual Owner</strong> - $50.00 per dwelling unit</td>
</tr>
<tr>
<td><strong>Townhouse Single Building Owner</strong> - $50.00 per structure plus $15.00 per dwelling unit</td>
</tr>
<tr>
<td><strong>Landlord Initiated Inspection</strong> - $50.00</td>
</tr>
<tr>
<td><strong>Third Party Initiated Inspection</strong> - $100.00</td>
</tr>
<tr>
<td><strong>Re-inspection fee</strong> - 1st no charge, 2nd $75.00, 3rd $200.00</td>
</tr>
<tr>
<td><strong>Failure to complete repair fines shall be</strong> - 1st notice $75.00, 2nd notice $200.00, 3rd notice shall be considered a Municipal Infraction and prosecuted pursuant to Chapter 3 of the Johnston Code of Ordinances.</td>
</tr>
<tr>
<td><strong>Owners shall have 6 months after adoption to report initial rental properties and apply for a rental certificate. Failure to do so will result in all fees and fines being doubled.</strong></td>
</tr>
<tr>
<td><strong>Owner will have 60 days to report all new rental properties and apply for a rental certificate. Failure to do so will result in all fees and fines being doubled.</strong></td>
</tr>
</tbody>
</table>

* All fees shall be paid prior to inspection. Those fees collected for Landlord, Tenant or Third Party inspections shall be refunded if the party filing the
complaint is found to be correct and the fee shall be assessed to the culpable individual or company.

(Ord. 962 – Nov. 17 Supp.)

153.05 ENFORCEMENT. The Building Official, Fire Chief and/or their designated representative are hereby authorized and directed to enforce all the provisions of this chapter. For such purposes, the Building Official, Fire Chief and/or their designated representative shall have the power to render interpretations of this chapter and to adopt and enforce rules and supplemental regulations to clarify the applications of its provisions.

153.06 CERTIFICATES REQUIRED. Any person or entity wishing to engage in the renting/contract sale of dwelling units or allow the occupation of a dwelling unit by a non-relative shall first obtain a Rental Certificate from the Johnston Building Department. This certificate shall be placed in a conspicuous place within the property being rented.

(Ord. 962 – Nov. 17 Supp.)

1. No person shall rent, lease, let, operate, or otherwise allow the occupancy of any dwelling unit or any portion of any dwelling unit (including single rooms) unless they hold a valid Rental Inspection Certificate. The preceding language does not preclude relatives, or similar persons from occupying a portion of an owner occupied single family dwelling unit, which complies with the single family rental housing criteria listed in this section.

2. The City of Johnston is not involved in or a party to property sales, changes in ownership, or rental agreements. Therefore, it is the responsibility of the property owner/agent to ensure that their rental properties have valid rental certificates. Failure to acquire or renew the required rental certificate may result in notice being sent to the property owner that the specified address is an illegal rental. This action may include posting notice on the property as an illegal rental with door hangers, yard signage, or similar signs, and providing notice to the tenant that the property they occupy has not been approved by the City as a legal rental property.

3. New Units. New construction projects, which have received a Final Inspection and have passed a Final Certificate of Occupancy within the last two years from the adoption date of the ordinance codified in this chapter and has all required owner/agent information on file with the City of Johnston, shall be considered to be in compliance with rental inspection certificate and fee requirements for a period of two years from the adoption date.

4. Required Owner/Agent Information. Owners of residential rental property within the City, who reside within seventy-five miles, shall provide the Building Department with their physical addresses, telephone numbers, fax numbers, and e-mail addresses, if available. Owners of residential rental property within the City who reside outside of the aforementioned areas, shall provide the Building Department with the name and contact information of an individual over the age of eighteen who shall reside within the aforementioned areas, and who shall be designated as agent for scheduling inspections, receiving notices and service of process. A new owner shall provide the information required in this subsection within five days from the date of any change in ownership. Failure to give said notice will render the rental certificate null and void. Re-inspection and the associate fees shall be required to reinstate the rental certificate. The previous owner shall disclose this requirement to a new owner.
5. Failure to register the rental property within 6 months of adoption of this chapter will result in property owner/s being required to be inspected and to pay all fees at time of registration.

153.07 RENTAL INSPECTION. The Building Department shall seek to inspect all apartment houses, congregate residences, rental dwellings, and sleeping units and common areas within the City every two (2) years. As part of the inspection process, the City may determine to expand or shorten the time frame to the next scheduled inspection. Exception: Any apartment home or congregate residence requiring State or Federal licensing or certification is exempt from fees and inspection. This does not include receiving subsidies for rent, heat, water and other assistance from these agencies.

1. Factors that may influence the City to inspect more or less in frequency may include, but are not limited to, the following:
   A. Age and condition of dwelling.
   B. Inspection history.
   C. Tenant/management complaints.
   D. Natural disasters such as flooding.
   E. Timely inspection scheduling, follow-up and fee payment by owner.
   F. In house inspection and maintenance program by owner that includes specific life/safety provisions.
   G. Maintenance of the “Crime-free multi-housing” designation as established through the Johnston Police Department.

2. It is the responsibility of the property owner(s)/agent to ensure that their rental properties have a valid rental inspection certificate. However, the City may schedule inspection appointments with the owner(s)/agent of the property by regular mail, facsimile, or e-mail, a minimum of thirty (30) days in advance of the inspection. It shall be the owner(s)/agent’s responsibility to notify all tenants of the inspection date and time, in accordance with Iowa law.

3. Inspections shall not be conducted with a minor as the sole representative of the owner(s)/agent. Inspections shall not be conducted against the will of the tenant without the building owner(s)/agent being present. Inspections shall not be conducted without prior notice to the tenant, as required by Iowa law.

4. When receiving or responding to complaints from rental property tenants, the City will typically intervene only if the tenant has presented their concerns in writing to the owner(s)/agent with a seven (7) day notice to respond, and the owner(s)/agent has failed to respond. Exception: Life/fire safety issues such as smoke detectors, blocked exits, exposed wiring, or similar.

5. Issuance or renewal of a rental certificate may be denied or revoked if the applicant, or a subsidiary firm, partnership, or corporation owns one (1) or more properties within the City in which the applicant or owner has been notified of violations of the City Code, but has not corrected said violations prior to City enforcement or abatement, including but not limited to failure to have current rental certificates. Violations of the International Property Maintenance Code (IPMC) shall be deemed violations of the City Code. Specifically, three (3) or more nuisance violations that occur within a twelve (12) month period may cause the issuance or
renewal of a rental certificate to be denied or revoked. The Building Official or designated employee may then choose to deny or revoke the issuance or renewal of one, some, or all rental certificates in the name of the applicant or owner(s) for violations of the City Code, whether or not the violations occurred on each property owned by that person(s) or entity(s).

6. All fees shall be collected prior to inspection.

7. Every rental inspection certificate issued under the authority of this chapter shall be displayed and/or made available by the owner for a tenant to examine, before any dwelling unit may be rented, leased, or otherwise occupied.

8. The following shall be inspected to insure that basic fire safety procedures are in place:

A. Smoke detectors.

B. Fire extinguishers: Fire extinguishers shall be in each rental dwelling unit and be tagged annually by an approved testing agency. There shall be one fire extinguisher for each 75 ft. of developed length of corridor or hallway.

C. Sprinklers: Sprinklers shall be tested annually by an approved testing agency. Test results shall be sent to City of Johnston Building Department and placed in the property file.

D. Stairways.

E. Emergency lighting.

F. Handrails/guardrails.

G. Extension cords: The use of extension cords is prohibited. Exceptions:

(1) An Arch Fault breaker protects outlet.

(2) Outlet is a Ground Fault Circuit Interrupter.

(3) Extension cords are first plugged into power cords with internal Ground Fault Circuit Interrupter protection.

H. Exits.

I. Storage of Flammable Liquids or Gas: Except ordinary household cleaners.

J. General maintenance of doors, windows and other building components.

153.08 RIGHT OF ENTRY. When it is necessary to make an inspection to enforce the provisions of this code, or when the Building Official has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to or in violation to this code that makes the building or premises unsafe, dangerous or hazardous, the Building Official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Building Official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is
refused, the Building Official shall have recourse to the remedies provided by law to secure entry.

153.09 OCCUPANCY VIOLATIONS. Whenever any building or structure or equipment therein regulated by this code is being used contrary to the provisions of or does not meet the requirements of the Johnston Code of Ordinances, the Building Official may order repairs to remedy said infraction or may order such use discontinued and the structure, or portion thereof, vacated by notice served on any person causing such use to be continued. Such person shall discontinue the use or remedy the infraction within the time prescribed by the Building Official after receipt of such notice to make the structure, or portion thereof comply with the requirements of this code. The Building Official shall have the power to start eviction proceedings.

153.10 EXPIRATION. Every certificate of use issued by the Building Official under the provisions of this code shall expire and become null and void two years after the date of issuance, unless suspended or revoked by separate action as provided for herein. It shall be the responsibility of the property owner, or their assigned agent to maintain an active and valid certificate. If a certificate of use is allowed to expire, the property owner or their assigned agent shall be required to pay all outstanding fines and fees including double the regular inspection fees within 60 days of the expiration date of the certificate of use to regain eligibility for rental housing and be issued a current certificate of use. The Building Official may extend the certificate to an expiration date of three (3) years depending on inspection history. New construction dwelling units at the determination of the Building Official may be granted an expiration of up to three (3) years.

(Ord. 962 – Nov. 17 Supp.)

153.11 SUSPENSION OR REVOCATION. The Building Official may, in writing, suspend or revoke a Certificate of Use issued under the provisions of this code whenever the certificate is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this code. In order to renew action on a Certificate of Use upon suspension or revocation, the owners, agents or others shall pay all outstanding fines and fees and shall pay double the original inspection fee.

153.12 EVICTION. Tenants can and shall be evicted from the premises by the Building Official after proper notice of violations. Shall it become necessary for the Building Official to proceed with eviction procedures, all legal and actual cost associated with the action shall be paid in full by the owners, agents or others prior to any tenants being allowed to reoccupy the structure. If the owners, agents or others fail to pay all cost after the 3rd notice the City of Johnston shall have the right to apply a lien on said property all cost associated with the action.

153.13 GOVERNMENT EXEMPT. The provisions of this chapter shall not apply to the United States of America and the State of Iowa or any of their agencies.

153.14 VIOLATION - PENALTY. Any person violating this chapter or otherwise fails to comply with a Rental Housing Inspection Order is in violation and shall be fined according to the fee table 153.04(1) or in accordance with Chapter 3 of the Johnston Code of Ordinance as a municipal infraction.

(Ord. 962 – Nov. 17 Supp.)

(Ch. 153 - Ord. 887 – Oct. 13 Supp.)
CHAPTER 154
FUEL GAS CODE

154.01  PURPOSE.

1. It is the purpose of this chapter to require architects, builders, contractors, property owners, their agents and others, to meet their responsibilities with respect to proper construction, construction techniques, and premises safety and to provide for inspection as a means of compelling compliance therewith. It is not the purpose of this chapter to create any duty on the part of the city, its offices, agents or employees, owing to any individual member of the public or to protect any particular or circumscribed class of persons. Specifically, it is not the intent of this chapter to create any duty or liability by the city, its officers, agents or employees, to premises’ occupants, owners, tenants or any other person.

2. No person shall place reliance upon this chapter, any inspections performed or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use or occupancy of any premises. A certification that a premises has been inspected pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of that premises.

154.02  INTERNATIONAL FUEL GAS CODE ADOPTED. The 2015 Edition of the International Fuel Gas Code (IFGC) and its Appendices A and B is hereby adopted, except as provided in this chapter, and shall be known as the “Johnston Fuel Gas Code”. Copies of the International Fuel Gas Code, 2015 edition are on file in the office of the City Clerk. Exceptions to this code shall be as set out in this chapter.”

(Ord. 966 – Nov. 17 Supp.)

154.03  DELETIONS, MODIFICATIONS AND/OR AMENDMENTS. The following deletions, modifications and/or amendments are made to the International Fuel Gas Code (hereinafter known as the IFGC) as published by the International Code Council.

1. Section 101.1 Title is hereby amended by inserting City of Johnston into [NAME OF JURISDICTION] thereof.

2. Section 106.2 Permits Not Required is hereby amended adding the following exception thereto:

3. Permits are not required for work being done by or for the City of Johnston or the Federal Government.

3. Section 106.6.2 Fee schedule is here by amended by inserting the following fee table into [JURISDICTION TO INSERT APPROPRIATE FEE SCHEDULE] thereto. This table shall be changed by resolution by the City Council.
**Mechanical/Fuel Gas Permit Fee Schedule**

<table>
<thead>
<tr>
<th>Category</th>
<th>Fee Structure</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Residential</td>
<td>$90.00 base fee per dwelling unit</td>
</tr>
<tr>
<td>Residential Remodel/Addition/Miscellaneous</td>
<td>$45.00 base fee</td>
</tr>
<tr>
<td>New Commercial/Addition</td>
<td>$90.00 base fee plus $10.00 per 100,000 BTU HVAC</td>
</tr>
<tr>
<td>Commercial Remodel/Miscellaneous</td>
<td>$45.00 base fee plus $10.00 per 100,000 BTU HVAC</td>
</tr>
</tbody>
</table>

Except as provided by law, where work has been started prior to obtaining a permit, the regular fee therefore may be doubled.

At the Building Official’s discretion, inspections may be scheduled after normal working hours or on weekends. However, permit holders requesting such inspections shall pay $90 per hour the inspector works, with a minimum charge for two hours.

4. Section 106.6.3 Fee refunds is hereby modified by deleting all [SPECIFY PERCENTAGE] under this subsection and inserting 80 percent thereto.

5. Section 108.4 Violation penalties is hereby amended by deleting the subparagraph and inserting the following paragraph thereto:

   Any violation of this chapter is considered a municipal infraction and shall be fined according to Chapter 3 of the Johnston Code of Ordinances.

6. Section 108.5 Stop work orders is hereby amended by deleting the last sentence of the paragraph and inserting the following sentence thereto:

   Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, will be considered a municipal infraction and shall be fined according to Chapter 3 of the Johnston Code of Ordinances.

7. Section 109 Means of Appeal is deleted in its entirety. The “Board of Appeals” referred to in the International Fuel Gas Code, shall be the board of appeals appointed pursuant to the Building Code of the city.

8. *(Repealed by Ord. 966 – Nov. 17 Supp.)*

   *(Ch. 154 - Ord. 903 – June 15 Supp.)*

[The next page is 891]
## CHAPTER 155
### BUILDING CODE

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>155.01</td>
<td>Purpose</td>
</tr>
<tr>
<td>155.02</td>
<td>International Building/Residential and Existing Building Codes Adopted</td>
</tr>
<tr>
<td>155.03</td>
<td>Deletions, Modifications and/or Amendments</td>
</tr>
<tr>
<td>155.04</td>
<td>Conflicting Provisions</td>
</tr>
<tr>
<td>155.05</td>
<td>Outstanding Permits</td>
</tr>
<tr>
<td>155.06</td>
<td>Site Maintenance</td>
</tr>
<tr>
<td>155.07</td>
<td>Building Valuation Data</td>
</tr>
<tr>
<td>155.08</td>
<td>Energy Compliance Fee</td>
</tr>
<tr>
<td>155.09</td>
<td>Street Protection</td>
</tr>
<tr>
<td>155.10</td>
<td>Government Exempt</td>
</tr>
<tr>
<td>155.11</td>
<td>Board of Appeals</td>
</tr>
<tr>
<td>155.12</td>
<td>Conversion to Horizontal Property Regime or Multiple Housing Cooperative</td>
</tr>
</tbody>
</table>

**155.01 PURPOSE.** It is the purpose of this chapter to require architects, builders, contractors, property owners, their agents and others, to meet their responsibilities with respect to proper construction, construction techniques, and premises safety and to provide for inspection as a means of compelling compliance therewith of City Codes. It shall be the responsibility of the aforementioned builders, contractors and so forth to be in compliance with State and Federal Codes. It is not the purpose of this chapter to create any duty on the part of the city, its offices, agents or employees, owing to any individual member of the public or to protect any particular or circumscribed class of persons. Specifically, it is not the intent of this chapter to create any duty or liability by the city, its officers, agents or employees, to premises’ occupants, owners, tenants or any other person. No person shall place reliance upon this chapter, any inspections performed or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use or occupancy of any premises. A certification that a premises has been inspected pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of that premises. (Ord. 417 §2 (part), 1992).

**155.02 INTERNATIONAL BUILDING/RESIDENTIAL AND EXISTING BUILDING CODES ADOPTED.** The 2015 edition of the International Building Code (IBC), and Appendix C and the 2015 edition of the International Residential Code (IRC), and Appendices H, M, and O, and the 2015 edition of the International Existing Building Code (IEBC), as published by the International Code Council, are adopted, except as provided in this chapter, and shall be known as the “Johnston Building Codes.” Copies of the 2015 editions of the International Building/Residential and Existing Building Codes are on file in the office of the City Clerk. Exceptions to this code shall be as set out in this Chapter.

**155.03 DELETIONS, MODIFICATIONS AND/OR AMENDMENTS.** The following deletions, modifications and/or amendments are made to the International Building, Residential and Existing Building Codes (hereinafter known as the IBC, IRC and IEBC respectively) as published by the International Code Council.

1. Section 101.1 Title of the IBC/IEBC and R101.1 Title of the IRC by inserting City of Johnston in (NAME OF JURISDICTION) thereof.

2. Section 105.2 Work Exempt from Permit of the IBC thereof is modified by deleting subparagraphs 1, 2, 4, 5, 8, 9, 10, and 12.
3. Section R105.2 Work Exempt from Permit of the IRC thereof is modified by deleting subparagraphs 1, 2, 4, 5 and 9.

4. Section R105.2 IBC/R105.2 IRC Work Exempt from Permit are modified by deleting all subparagraphs starting at Electrical and ending before Section R105.2.1 IBC/R105.2.1 IRC Emergency repairs. (These areas will be covered in the Johnston Code of Ordinances under Plumbing, Electrical and Mechanical Chapters)

5. Section Chapter 13 Energy Efficiency of the IBC is deleted. It shall be the responsibility of the holder of the permit to meet all applicable State and Federal requirements. Chapter 11 Accessibility of the IBC shall be used as a reference only.

6. Chapters 11, and 34 through 43 of the IRC are deleted in their entirety. (These areas will be covered in the Johnston Code of Ordinances under Chapter 157, Electrical Code).

7. Section 109 Fees, of the IBC and R108 Fees, of the IRC thereof is modified by adding a new subparagraph at the end of each thereof as follows:

   109.7 Demolition Fees (IBC)/R108.6 Demolition Fees (IRC). The fee for a demolition permit shall be $50.00. This fee may be waived at the discretion of the Building Official. The Building Official may require that a bond be posted by any permittee engaged in demolition activity. Said bond, in an amount not less than $500.00, shall be required in those instances where the Building Official determines that there exists or may exist a threat to public health, welfare, or safety, or in order to insure compliance with this Chapter or other applicable laws.

8. Section 109 Fees, of the IBC and R108 Fees, of the IRC thereof is modified by adding a new subparagraph at the end thereof:

   109.8 Exemption from fees (IBC)/R108.7 Exemption from fees. No building fees shall be collected on buildings or structures constructed by or for the City of Johnston, IA or the Federal Government.

9. Section 109 Fees, of the IBC and R108 Fees, of the IRC thereof is amended by inserting the following tables at the end thereof.

   ![Insert Table Here]
### TABLE NO. 1A – BUILDING PERMIT FEES

<table>
<thead>
<tr>
<th>TOTAL VALUATION</th>
<th>FEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1.00 to $500.00</td>
<td>$25.00</td>
</tr>
<tr>
<td>$500.01 to $2,000.00</td>
<td>$25.00 for the first $500.00 plus $2.00 for each additional $100.00 or fraction thereof, to and including $2,000.00</td>
</tr>
<tr>
<td>$2,000.01 to $25,000.00</td>
<td>$55.00 for the first $2,000.00 plus $9.00 for each additional $1,000.00 or fraction thereof, to and including $25,000.00</td>
</tr>
<tr>
<td>$25,000.01 to $50,000.00</td>
<td>$262.00 for the first $25,000.00 plus $6.50 for each additional $1,000.00 or fraction thereof, to and including $50,000.00</td>
</tr>
<tr>
<td>$50,000.01 to $100,000.00</td>
<td>$424.50 for the first $50,000.00 plus $4.50 for each additional $1,000.00 or fraction thereof, to and including $100,000.00</td>
</tr>
<tr>
<td>$100,000.01 to $500,000.00</td>
<td>$649.50 for the first $100,000.00 plus $3.50 for each additional $1,000.00 or fraction thereof, to and including $500,000.00</td>
</tr>
<tr>
<td>$500,000.01 to $1,000,000.00</td>
<td>$2,049.50 for the first $500,000.00 plus $3.00 for each additional $1,000.00 or fraction thereof, to and including $1,000,000.00</td>
</tr>
<tr>
<td>$1,000,001 and up</td>
<td>$3,549.50 for the first $1,000,000.00 plus $2.00 for each additional $1,000.00 or fraction thereof</td>
</tr>
</tbody>
</table>

Plan review fees shall be computed as follows:

<table>
<thead>
<tr>
<th>Total Valuation</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0.00 to $5,000.00</td>
<td>$10.00</td>
</tr>
<tr>
<td>$5,000.01 to $50,000.00</td>
<td>$40.00</td>
</tr>
<tr>
<td>$50,000.01 to $500,000.00</td>
<td>$80.00</td>
</tr>
<tr>
<td>$500,000.01 to $1,000,000.00</td>
<td>$150.00</td>
</tr>
<tr>
<td>$1,000,001 and up</td>
<td>$300.00 for the first $1,000,000.00 plus $.0003 for each additional $1,000.00 or fraction thereof</td>
</tr>
</tbody>
</table>

### TABLE NO. 1B – MISCELLANEOUS BUILDING PERMIT FEES

<table>
<thead>
<tr>
<th>Decks:</th>
<th>FEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 to 200 square feet</td>
<td>$40.00</td>
</tr>
<tr>
<td>201 to 300 square feet</td>
<td>$65.00</td>
</tr>
<tr>
<td>Over 300 square feet</td>
<td>Valuation basis use Table 1A</td>
</tr>
</tbody>
</table>

Screened porches, sun rooms and other similar structures and additions shall be charged on a valuation basis using Table 1-A.

Portable swimming pools or similar structures capable of holding more than 24” of water shall be charged a fee of $25.00. Permanent pools shall be charged on a valuation basis using Table 1-A.

Fireplace                   | $25.00                                   |

One story detached accessory buildings used as tool and storage sheds and similar uses up to 120 square feet. | $25.00 |

Recalculation of permit (applied to changes after permit paid) | $75.00 |

Miscellaneous fee (for additional item/s not covered within the table) shall be calculated based upon the time to review and inspect and charged at a rate of $45 per hour.

Except as provided by law, where work is started without obtaining a permit the Building Official may charge a fee not to exceed twice the original building fee.

Upon discovery, those permit holders who have provided inaccurate plans (please see FPN) shall be charged a Recalculation Fee of $75.00 plus a fee not to exceed twice the new Building Fee for the added floor area.

At the discretion of the Building Official, inspections may be scheduled after normal working hours or on weekends. However, permit holders requesting such inspections shall pay $90 per hour the inspector works, with a minimum charge for two hours.

FPN: Finishing more space than what was originally submitted, wrong dimensions of structure, the adding of additions on exterior of structure, providing new set of plans after first set has been approved, etc.
10. Section 105.4 Validity of Permit, of the IBC and R105.4 Validity of Permit, of the IRC are hereby modified by adding a new subparagraph at the end thereof:

105.4.1(IBC)/R105.4.1 Indemnity. The applicant for any permit under this chapter, by making such application, assumes and agrees to pay for all loss or damage to property whatsoever, and injury to or death of any person or person whomsoever, including all costs and expenses incident thereto, however, arising from or in connection with or related to the issuance of such permit or the doing of anything thereunder or the failure or such applicant, or the agents, employees or servants of such applicant, to abide by or comply with any of the provisions of this Chapter or any other ordinance of the city; and such applicant, by making such application, forever indemnifies the city, its officers and employees, and agrees to save it and them harmless from any and all claims, demands, lawsuits, or liability whatsoever for any loss, damage, injury or death, costs and expenses, by reasons of the foregoing, even though acts or omissions of the city, its officers or employees, may have caused or contributed thereto. The foregoing provisions shall be deemed to be a part of any permit issued under this Chapter whether expressly recited therein or not.

11. Table R301.2(1) Climatic and Geographic design criteria is hereby amended by modifying said table as follows:

| Table 301.2 (1) |
| CLIMATE AND GEOGRAPHICAL DESIGN CRITERIA |
| Ground Snow Load | 30 psf. |
| Wind Design Speed (MPH) | 90 mph |
| Topographical Effects | NO |
| Special Wind Regions | NO |
| Windborne Debris Zone | NO |
| Seismic Design Category | A |
| Subject to Damage From Weathering | Severe |
| Frost Line Depth | 42" |
| Termite | Mod/Hvy |
| Winter Design Temp. | -5 deg. F |
| Ice Barrier/Underlayment Required | Yes |
| Flood Hazards | 19-Jul-00 |
| Air Freezing Index | 1833 |
| Mean Annual Temp. | 48.6 deg. |
12. Section **R302.6 Dwelling/garage fire separation** is hereby deleted in its entirety and inserting the following paragraph therein:

   The garage shall be separated from the residence by not less than 5/8 inch Type X gypsum board applied to the garage side walls and ceiling. Doors between garage and dwelling shall be equipped with self closing hardware.

13. Section **R 302.13 Fire protection of floors** is deleted in its entirety.

14. Section **R310.2.1 Minimum opening area** is hereby modified by adding the following sentences thereto:

   Existing windows that are replaced with “Replacement Insert Windows” may be reduced by ten percent (10%) of the required net clear opening. Any single-hung window/s required to be a means of egress must be replaced with double-hung windows and will be allowed to meet the required net clear opening using both panes of glazing.

15. **R 310.05 Dwelling additions and R 310.6 Alterations or repairs of existing basements** are hereby deleted.

16. Section **R310 Emergency Escape and Rescue openings** is modified by adding the follow subsection thereto:

   **R 310.5 Additions, alterations or repairs of existing basements.**

   Basement remodel, additions and repairs of existing dwellings with 200 or more square feet of existing floor space and a ceiling height greater than or equal to 6’8” shall have a minimum of one egress opening. If the egress opening cannot be located in the planned sleeping room of a remodel/addition or repair, the opening may be placed at a location outside the room with the location to be at the discretion of the Building Official. This is to ensure that the stairway and egress window are located at a distance equal to but not less than 1/3 the distance of a line drawn from one corner to the furthest corner of the basement. In a basement remodel/addition or repair, the path of egress to this opening shall not pass through more than one doorway.

17. Section **R 310.2.2 Window sill height** is hereby modified by adding the following exception thereto:

   Exception: A landing may be provided to meet the maximum sill height of forty-four (44) inches above the existing floor or landing, provided the landing shall not be less than thirty-six (36) inches wide and not less than twelve (12) inches in depth to the exterior wall and not more than twenty-four (24) inches in height. The landing shall be permanently affixed to the floor or wall under the window it serves.

18. Section **R311.7.5.1 Risers** is hereby amended by adding the following exception thereto:

   The opening between adjacent treads is not limited on exterior stairs serving individual dwelling units.
19. Section R 314.3 Location. Location 3 is hereby amended by adding the following sentence thereto:

5. A smoke alarm shall be installed where there is a ceiling vault or change in height of 24 inches or more and in all separate Finished/Unfinished portions of basements and similar locations within the dwelling as determined by the Building Official. There shall be one located at or near the bottom of the stairs (within 10 feet).

Example: Theater, exercise, large storage or mechanical rooms.

(For the purpose of defining “in the immediate vicinity” of this section, the hardwired with battery backup detector/s shall be no more than 25 ft. from a bedroom door and shall not be obstructed by any other closeable door or partition. Where battery only smoke alarms are used, the location shall be no more than 8 feet from a bedroom door.)

20. Section R 401.3 Drainage (IRC) & Section 1804.4 Site grading (IBC) are modified by adding the following sentence to the exception thereof:

If a sump pump is installed the distance away from the foundation can be reduced to zero (0) feet.

21. Section R403 Footings is hereby amended by deleting Table R403.1 (1) Minimum Width of Concrete or Masonry Footings.

22. Section R403.1 General is hereby amended by adding the following sentences to the end of the paragraph thereto:

Soils that footings are constructed upon shall have a minimum baring pressure of 2000 pounds per square foot. Minimum footing size shall be 16 inches wide by 8 inches deep with a minimum of two continuous ½-inch rebar unless other means of design is approved by the Building Official. All steel reinforcement in footing and foundation walls shall be in place and inspected prior to concrete placement. The Residential Conventional Footing Dimensions Chart is an acceptable alternative for soils less than 2000 pounds per square foot if no expansive soils present.

Footings and walls shall be protected from freezing. The Metro Cold Weather Concrete Policy shall be the acceptable practice for protection. The Building Official may use other designs or practices as weather and other conditions apply. Concrete must reach a strength of 500 psi after 48 hours, 1250 psi after 7 days and reach its full strength after 28 days.

23. Section R404.1.2 Design of masonry foundation walls is amended by adding the following subparagraph thereto:

R404.1.2.2 Minimum Horizontal and Vertical Reinforcement. Poured concrete foundation walls shall have the following minimum horizontal and vertical steel reinforcement. The height of the wall is calculated by measuring from the top of the wall to the top of the footing. The Building Official may accept other engineered designs.
The following are based on footings designed to hold 2,000 pounds per square foot. Walls that are between 8 feet and 10 feet in height shall have vertical ½ inch rebar a maximum of 20 inches apart and secured at top and bottom.

1. Walls to a height of 4 feet shall have a minimum of 2 horizontal bars with a minimum of 12 inches of overlap at joints and corners.

2. Walls with a height between 4 feet to 6 feet shall have a minimum of 3 horizontal bars with a minimum of 12 inches of overlap at joints and corners.

3. Walls with a height between 6 feet and 8 feet shall have a minimum of 4 horizontal bars with a minimum of 12 inches of overlap at joints and corners.

4. Walls with a height between 8 feet and 10 feet shall have a minimum of 5 bars with a minimum of 12 inches of overlap at joints and corners.

5. Walls with a height over 10 feet shall be engineered.

24. Section R 403.1.4.1 Frost protection Exception 1 is deleted in its entirety and the following subsection inserted thereto:

1. Protection for freestanding accessory structures 1,000 square feet or less in floor area and of light-frame construction shall not be required. When using a non-frost protected concrete slab it shall include a thickened outer edge of a minimum twelve (12) inches thick. Six inches of the thickened slab shall be below grade and six inches shall be above finished grade. The bottom portion of the thickened outer edge area shall be twelve (12) by twelve (12) inches. Two #4 rebar shall be placed within the thickened edge continuous around the perimeter of the slab. The floor shall be Portland cement concrete not less than four (4) inches thick. Floor areas shall have all sod and/or debris removed.

25. Section IBC 308.6.4 is deleted in its entirety and the following subsection inserted thereto:

308.6.4 Eight or fewer persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having eight or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or shall comply with the International Residential Code.

26. Subsections IBC 310.5 & IBC 310.5.1 are deleted in their entirety and the following new subsection inserted thereto:

310.5 Residential Group R-3. Residential Group R-3 occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4 or I, including:

Buildings that do not contain more than two dwelling units
Boarding houses (nontransient) with 16 or fewer occupants
Boarding houses (transient) with 10 or fewer occupants
Care facilities as identified in Sections 308.3.4 or 308.4.2 that provide accommodations for five or fewer persons receiving care
Day care facilities as identified in section 308.6.4 located within single family dwellings with 8 or fewer persons receiving custodial care
Congregate living facilities (nontransient) with 16 or fewer occupants
Congregate living facilities (transient) with 10 or fewer occupants
Lodging houses with five or fewer guest rooms

310.5.1 Care facilities within a dwelling. Care facilities that are located within a single-family dwelling are permitted to comply with the *International Residential Code* in accordance with this section.

310.5.1.1 24-hour care facilities within a dwelling. Care facilities as identified in sections 308.3.4 or 308.4.2 that provide accommodations for 5 or fewer persons receiving custodial care in a single-family dwelling for 24-hours per day are permitted to comply with the *International Residential Code* provided an automatic sprinkler system is installed in accordance with Section 903.3.1.3 or Section P2904 of the *International Residential Code*.

310.5.1.2 Day care facilities within a dwelling. Day care facilities as identified in section 308.6.4 that provide custodial care for 8 or fewer persons for less than 24-hours per day in a single-family dwelling are permitted to comply with the *International Residential Code*.

Exception: Day care facilities as identified in section 308.6.4 that provide custodial care for 16 or fewer persons for less than 24-hours per day in a single-family dwelling, and are registered with the State of Iowa Department of Human Services as child development homes on or before January 1, 2017, are permitted to comply with the *International Residential Code*.

27. Subsection *IBC [F] 403.3.2 Water supply to required fire pumps*. Is deleted in its entirety and the following subsection inserted thereto:

403.3.2 Water supply to required fire pumps. Required fire pumps shall be supplied by connection to a minimum of two water mains located in different streets. Separate supply piping shall be provided between each connection to the water main and the pumps. Each connection and the supply piping between the connection and the pumps shall be sized to supply the flow and pressure required for the pumps to operate.

Exception. Two connections to the same main shall be permitted provided the main is valved such that an interruption can be isolated so that the water supply will continue without interruption through at least one of the connections.

28. Subsection *IBC [F] 901.8* is amended by inserting the following sentence at the end of the paragraph thereto:
“The fire sprinkler riser room shall not be accessed from the electrical room, but the electrical room may be accessed from the fire sprinkler riser room.”

29. Subsection IBC [F] 903.2 Where required is deleted in its entirety and the following section inserted thereto:

**Section 903.2 Where Required.** An approved automatic fire extinguishing system is required if the gross square footage of a building is equal to or greater than the following:

**For the purposes of this Section,** “fire separations” shall not be permitted to reduce the total gross square footage of a building or area for the purpose of calculating the fire sprinkler square footage requirements.

**For the purposes of this Section,** “story” shall be defined as any level of a structure, whether above or below grade capable of occupancy.

**Exemption.** To be exempt from meeting the requirements to have fire sprinklers systems installed, the buildings or structures per legal lot or contiguous lots under common ownership, must be separated by twenty feet (20’) and have 1 hour rated exterior walls on both buildings or structures so as not to have the combined total of their gross square footage applied to this Section of the Code. Note: The square footage used for calculating total “gross square footage” of a building or structure shall be measured using the outside dimensions of the total building or structure to include attached or detached buildings or structures meeting the above requirements.

**Open Corridors/Hallways** shall be required to have fire sprinklers installed in them when the building they are constructed in is required by this code to have a fire sprinkler system.

“**An approved automatic fire extinguishing system**” includes but is not limited to a complete automatic fire sprinkler system. The following Sections requiring complete automatic fire sprinkler systems shall install the fire sprinkler system following NFPA 13 standard unless otherwise noted. Alternative automatic extinguishing systems may be used if in the opinion of the Code Official the same life safety and property conservation measures are equivalent to the NFPA standard listed in this Code.

30. Subsections IBC [F] 903.2.1, 903.2.2, 903.2.3, 903.2.4, 903.2.5, 903.2.6, 903.2.7, 903.2.8, 903.2.9, and 903.2.10 are hereby amended by deleting said sections, including all subsections and exceptions, and inserting in lieu thereof the following:

**Section 903.2.1. Group A to read as follows: Sprinklers Required At:**

**Group A:** A-1. Building or structures, or portions thereof, having an assembly use, usually with fixed seating, intended for the production and viewing of the performing arts or motion pictures including but not limited to: See
IFC Occupancy Classification definition A-1.

1. Occupant load of 299 or less. 6,000 s.f.
2. Occupant load of 300 or more. 0 s.f.

NFPA 13 A-2. Building or structures, or portion thereof, having an assembly use intended for food and/or drink consumption including but not limited to: See IFC Occupancy Classification definition A-2.

1. Occupant load of 50 or more. 0 s.f.
2. Occupant load of 49 or less. 1,500 s.f.

NFPA 13 A-3. Building or structures, or portions thereof, having an assembly use intended for worship, recreation or amusement and other assembly uses not classified elsewhere in Group A including but not limited to: See IFC Occupancy Classification definition A-3.

1. Occupant load of 299 or less. 6,000 s.f.
2. Occupant load of 300 or more. 4,500 s.f.

NFPA 13 A-4. Building or structures, or portions thereof, having an assembly use intended for viewing of indoor sporting events and activities with spectator seating including but not limited to: See IFC Occupancy Classification definition A-4.

1. Occupant load of 299 or less. 6,000 s.f.
2. Occupant load of 300 or more. 4,500 s.f.

NFPA 13 A-5. Building or structures, or portions thereof, having an assembly use intended for participation in or viewing of outdoor activities including but not limited to: See IFC Occupancy Classification definition A-5 and IFC Section 903.2.1.5 for areas to be provided with protection. 1,000 s.f.

Section 903.2.2 Group B to read as follows: Sprinklers Required At:

Group B: Building or structures, or portions thereof, used for office, professional or service type transactions, including storage of records and accounts. Business occupancies shall include but not be limited to: See IFC Occupancy Classification definition B. 6,000 s.f.

Section 903.2.3 Group E to read as follows: Sprinklers Required At:

Group E: Building or structures, or portions thereof, used by six or more persons at any one time for educational purposes. 0 s.f.
A Licensed Day Care is any buildings or structures, or portions thereof, used for educational, supervision or personal care services for more than five children older than 2 years of age and which shall be classified as an E occupancy.

Section 903.2.4 Group F to read as follows: Sprinklers Required At:

**Group F:**
- **F-1.** Moderate hazard factory and industrial occupancies including factory and industrial uses not classified as Group F, Division 2 Occupancies shall include but not be limited to: See IFC Occupancy Classification definition F-1. 6,000 s.f.
- **F-1.1.** Woodworking operations which generate finely divided combustible waste or uses finely divided combustible materials. 2,500 s.f.
- **F-2.** Low-hazard factory and industrial uses that involve the fabrication or manufacturing of noncombustible materials which during finishing, packing or processing do not involve a significant fire hazard shall include but not be limited to: See IFC Occupancy Classification definition F-2. 15,000 s.f.

Section 903.2.5 Group H. to read as follows: Sprinklers Required At:

**Group H:**
- **H-1.** Building or structures or portions thereof, that pose a detonation hazard: See IFC Occupancy Classification definition H-1. 0 s.f.
- **H-2.** Building or structures, or portions thereof, which contain materials that pose a deflagration hazard or a hazard from accelerated burning: See IFC Occupancy Classification definition H-2. 0 s.f.
- **H-3.** Building or structures, or portions thereof, which contain materials that readily support combustion or pose physical hazard: See IFC Occupancy Classification definition H-3. 0 s.f.
- **H-4.** Building or structures, or portions thereof, which contain materials that are health hazards: See IFC Occupancy Classification definition H-4. 0 s.f.
- **H-5.** Semiconductors fabrication facilities and comparable research and development areas in which production materials are used. Such facilities and areas shall be designed and constructed in accordance with Section 415.11 of the IBC (2015). Design of the sprinkler system shall not be less than Table 903.2.5.2. 0 s.f.
NFPA 13 Pyroxylin plastics. Buildings or structures where cellulose nitrate film or pyroxylin plastics are manufactured, stored or handled in quantities exceeding 100 pounds.

Section 903.2.6 Group I to read as follows: Sprinklers Required At:

**Group I:**

**I-1.** Building or structures, or portions thereof, housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment but which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. A facility such as the above with five or fewer persons shall be classified as Group R-3. A facility such as the above with at least six and not more than 16 persons shall be classified as Group R-4.

**I-2.** Building or structures, or portions thereof, used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than four persons who are not capable of self-preservation. A facility such as the above with four or fewer persons shall be classified as Group R-3. Child care facilities are any buildings or structures, or a portion thereof, which provide care on a 24-hour basis to more than five children 2½ years of age or less which shall be classified at Group I-2.

**I-3.** Building or structures, or portions thereof, which are inhabited by more than five persons who are under restraint or security. See IFC Occupancy Classification definition I-3 for type of condition.

**I-4.** Building or structures, or portions thereof, which are occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage or adoption and in a place other than the home of the person cared for. A facility such as the above with five or fewer persons shall be classified as Group R-3. Places of worship during religious functions are not included.

Adult care facilities provide accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services. Child care facilities provide supervision and personal care on less than a 24-hour basis for more than five children, 2½ years of age or less.
Section 903.2.7 Group M to read as follows: Sprinklers Required At:

**Group M:**
- Building or structures, or portions thereof, for the display and sale of merchandise, and involving stocks of goods, wares or merchandise, incidental to such purposes and accessible to the public shall include but not be limited to: See IFC Occupancy Classification definition Group M.

*6,000 s.f.*

Section 903.2.8 Group R to read as follows: Sprinklers Required At:

**Group R:**
- **R-1.** Hotels, motels, boarding houses (transient). (Occupy less than 30 days) *0 s.f.*
- **R-2.** Apartment houses, Condominiums, Boarding houses (non-transient), Convents Dormitories, Fraternities and Sororities *0 s.f.*
- **R-3.** Dwellings *8,000 s.f.*
- **R-3.** Townhouse
  - In addition, townhouses, less than 8,000 s.f., that are not open on at least two sides are required to install fire sprinkler systems set forth in the IFC 2015 Edition. *8,000 s.f.*
- **R-4.** Residential Care/Assisted Living Facilities for more than five but not more than 16 occupants, excluding staff. *0 s.f.*

Section 903.2.9 Group S to read as follows: Sprinklers Required At:

**Group S:**
- **S-1.** Moderate hazard storage occupancies including building or portions of buildings used for storage of combustible materials not classified as Group S, Division 2 or Group H occupancies but not be limited to: See IFC Occupancy Classification definition S-1. *6,000 s.f.*
- **Self Storage to include buildings or portions thereof used for the storage of personal belongings including but not limited to: household goods, recreational vehicles, passenger vehicles, and watercraft, where access to the storage spaces is secured and limited to the person(s) renting the storage space through a single entrance to each individual space.** *12,000 s.f.*
- A Group S-1 self storage fire area is located more than three stories above grade plane. *0 s.f.*
NFPA 13  Commercial truck or bus storage. To include motor vehicles used to transport passengers or property where the motor vehicle:

1. Has a gross vehicle weight rating of 10,000 or more; or
2. Is designed to transport 16 or more passengers, including the driver. 5,000 s.f.

NFPA 13  Repair garages/Service stations 3,500 s.f.

NFPA 13  Bulk Storage of tires 20,000 cu.f.

NFPA 13  S-2. Low hazard storage occupancies including buildings or portions of buildings used for storage of noncombustible materials but not be limited to: See IFC Occupancy Classification definition S-2. 15,000 s.f.

Section 903.2.10 Group U to read as: Sprinklers Required At:

Group U: Private garages, carports, sheds and agricultural n/a buildings.

31  Subsection IBC [F] 903.2.11.1.3 Basements is deleted in its entirety and the following subsection inserted thereto:

903.2.11.1.3 Basements. Where any portion of a basement is located more than 75 feet (22 860 mm) from openings required by Section 903.2.11.1, the basement shall be equipped throughout with an approved automatic sprinkler system.

32.  Subsection IBC [F] 903.4.2 Alarms is deleted in its entirety and replaced with the following new subsection thereto:

903.4.2 Alarms. An approved weather proof audible device suitable for outdoor use with 110 candela visual signal shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

33.  Subsection IBC [F] 905.3 Required installations is modified by inserting subsection 905.3.9 thereto:

905.3.9 Building Footprint and Access. Where the most remote portion of a floor or story is more than 400 feet from a hose connection or fire department access road the fire code official is authorized to require standpipes to be provided in approved locations. Class I manual standpipes shall be allowed.
34. Subsection IBC [F] 907.1 General is modified by adding the following subsection thereto:

907.1.4 FACP (Fire Alarm Control Panels). Each building shall have no more than 1 FACP. Installation of fire alarm panel shall not exceed six feet in height measured from the floor to the top of the unit.

Exception: Suppression system releasing panels are not required to meet the height requirement or the limitation in the number of panels.

35. Section IBC [F] 907.2 is hereby amended by deleting said section, and inserting in lieu thereof the following:

Section 907.2. Where Required. An approved fire alarm system meeting provisions of this code and NFPA 72 shall be installed when the gross square footage of a building is equal to or greater than the area as specified in Sections 903.2.1 through 903.2.10 inclusive, subject to the authority having jurisdiction or by Section 907 which ever shall be more restrictive. The fire alarm system shall provide occupant notification in accordance with Section 907.5, unless other requirements are provided by another section of this code.

Manual fire alarm boxes shall be required where deemed necessary by the fire code official.

Where corridors and/or hallways are protected by fire sprinkler systems they shall also be protected by smoke detection. Smoke detection shall be of the photoelectric type or as approved by the fire code official.

Exception:

1. Buildings with 8 or less initiating devices may use zoned systems provided only one device is used per zone. Each device shall have a plain English LCD (liquid crystal display). This alpha/numeric descriptor location is required to be reported to the Polk County dispatch center upon activation of the fire alarm system.

2. R-3 dwellings are not required to meet Section 907.2 of this Code.

3. Townhomes are required to be monitored only if a single fire sprinkler system is used for multiple units.

36. Sections IBC [F] 907.2.8 and 907.2.9 are hereby amended by deleting said sections, including subsections and exceptions, and inserting in lieu thereof the following:

Section 907.2.8 Group R General. Group R-1; Group R-2 apartment houses, condominiums and boarding houses (non-transient), convents, dormitories, fraternities, sororities, and monasteries; and Group R-4 shall have a monitored addressable fire alarm system.

37. Section IBC [F] 907.2.11 is hereby amended by deleting said section, including exceptions, and inserting in lieu thereof the following:
Section 907.2.11 Single and Multi-Station Smoke Alarms. Listed single and multiple-station smoke alarms complying with UL 217 shall be installed in accordance with Sections 907.2.11.1 through 907.2.11.7 and the household fire warning equipment provision of NFPA 72. Smoke alarms in dwelling units shall be addressable with sounder bases and monitored by the building fire alarm system as a supervisory signal only. Mini horns in dwelling units are not required if notification from a building fire alarm system is through the smoke alarms with sounder bases.

Note: Section 907.2.10 only applies to R-1, R-2, R-4, and I-1.

38. Section IBC [F] 907.6.3 is hereby amended by deleting exceptions 1 and 2, and inserting in lieu thereof the following:

Section 907.6.3 Exceptions:
1. Fire alarm systems with 8 or less initiating devices may use zoned systems provided only one device is used per zone. Each device shall have a plain English LCD (liquid crystal display). This alpha/numeric descriptor location is required to be reported to the Polk County dispatch center upon activation of the fire alarm system.

39. Section IBC [F] 907.6.3 is hereby amended by adding a new section, 907.6.3.2, as follows:

Section 907.6.3.2 Zone and address location labeling. Fire alarm panels shall have all zones and address points plainly and permanently labeled as to their location on the outside of the panel or on an easily readable map of the building, if no display screen is present.

40. Subsection IBC [F] 907.6.6 Monitoring is deleted in its entirety and the following subsection inserted thereto:

907.6.6 Monitoring. Fire alarm systems required by this chapter or by the International Building Code shall be monitored by a central station approved and listed under UL 827 in accordance with NFPA 72.

Exception: Monitoring station is not required for:
Automatic sprinkler and fire alarm systems in one- and two- family dwellings.

41. Section IBC [F] 910.2 is hereby amended by adding the following exception:

Section 910.2 Exceptions:
4. The Code Official may require smoke removal equipment to be installed if it is deemed necessary for the protection of life and property.

42. Section IBC 910.2.1 Group F-1 or S-1 is deleted in its entirety and the following section inserted thereto:

910.2.1 Group F-1 or S-1. Smoke and heat vents installed in accordance with Section 910.3 or a mechanical smoke removal system installed in accordance with Section 910.4 shall be installed in buildings and portions thereof used as a Group F-1 or S-1 occupancy having more than 30,000 square feet (2787 m2) of undivided area. In occupied portions of a building equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, where the upper surface of the story is not a roof assembly, a mechanical smoke removal system in accordance with Section 910.4 shall be installed.

Exception: Group S-1 aircraft repair hangars.
43. Section IBC [F] 912.4.2 is hereby amended by deleting said section, and inserting in lieu thereof the following:

**Section 912.4.2 Clear space around connections.** A working space of not less than 60 inches in width, 60 in depth and 78 inches in height shall be provided and maintained in front of and to the sides of wall-mounted fire department connections and around the circumference of free-standing fire department connections, and if the fire department connection is accessible from a designated parking area, the space in front of the connection shall be marked “No Parking”, except as otherwise required or approved by the Fire Chief.

44. Section IBC [F] 1008.2 is hereby amended by adding a new section, 1008.2.3, as follows:

**Section 1008.2.3 Additional emergency lights.** Emergency lights may be required at the discretion of the code official to clarify an exit or exit access.

45. Section IBC 1008.3.1 General is hereby deleted in its entirety and the following section inserted thereto:

1008.3.1 General. In the event of the power supply failure in rooms and spaces that require 2 or more means of egress or are 400 square feet or greater an emergency electrical system shall automatically illuminate all of the following areas:

1. Aisles.
2. Corridors.
3. Exit access stairways and ramps.

46. Section IBC 1008.3.2 Buildings is hereby deleted in its entirety and the following subsection inserted thereto:

1008.3.2 Buildings. In the event of the power supply failure in rooms and spaces that require 2 or more means of egress or are 400 square feet or greater an emergency electrical system shall automatically illuminate all of the following areas:

1. Interior exit access stairways and ramps
2. Interior and exterior exit stairways and ramps
3. Exit passageways.
4. Vestibules and areas on the level of exit discharge used for exit discharge in accordance with Section 1028.1.
5. Exterior landings as required by Section 1010.1.6 for exit doorways that lead directly to the exit discharge.

47. Section IBC 1008.3.3 Rooms and spaces is hereby modified by deleting subparagraph “5” and inserting the following subparagraph thereto:

5. Restrooms containing more than one water closet/urinal or that are accessible.

48. Section IBC 1009.2 Continuity and components is hereby modified by adding the follow subparagraph thereto:

11. Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.
49. Section IBC 1010.1.6 Landings at doors is modified by adding the following sentence to the end of the paragraph thereto:

For landings required by Section 1010.1.5 to be at the same elevation on each side of the door exterior landings at doors shall be provided with frost protection.

50. Section IBC 1010.1.9.1 Hardware is hereby modified by adding the following sentence to the end of the paragraph thereto.

Thumb Turn Locks shall not be allowed.

51. Section IBC 1013.1 Where required is hereby modified by adding the following subsection thereto:

1013.1.1 Additional Exit Signs. Exit signs may be required at the discretion of the Code Official to clarify an exit or exit access.

52. Section IBC 1013.3 Illumination is hereby deleted in its entirety and the following subsection inserted thereto:

1013.3 Exit Sign Illumination. Exit signs shall use an LED lighting system and be illuminated internally. Exit signs are required to have battery backup unless an onsite generator is used. Luminance on the face of an exit sign shall have an intensity of not less than 5.0 footcandles (53.82 lux). Exception: Tactile Exit signs required by Section 1013.4 need not be provided with illumination.

53. Section IBC 1013.5 Internally illuminated exit signs is hereby deleted in its entirety.

54. Section IBC 1013.6 Externally illuminated exit signs and is hereby deleted in its entirety.

55. Section IBC 1028.5 Access to public way is hereby modified by adding the following subparagraph thereto.

1028.5.1 Components. Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.

56. Section IBC 1030.5 Window wells is hereby modified by adding the following subparagraph thereto:

1030.5.3 Window wells drainage. All window wells shall be provided with approved drainage.

57. Section IEBC 1401.2 Applicability is hereby modified by inserting “July, 1 2003” into [DATE TO BE INSERTED BY THE JURISDICTION] thereof:

155.04 CONFLICTING PROVISIONS. In any case where the provisions of this Chapter or the International Building Code adopted hereby are found to be in conflict with a provision of the Code of Iowa or a provision of any zoning, building, fire, safety or health ordinance or code of the city, existing on the effective date of the ordinance codified in this Chapter, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case where a provision of this chapter, or the Building Code adopted hereby, is found to be in conflict with a provision of any ordinance or code of the city, existing on the effective date of the ordinance codified in this Chapter which establishes a lower standard for the promotion and protection of the health and safety of the
people, the provision of this Chapter and the International Building Code adopted hereby shall be deemed to prevail.

155.05 OUTSTANDING PERMITS. If a building permit is outstanding on the effective date of the ordinance codified in this Chapter and the International Building Code adopted hereby, the provisions of this Chapter, and the International Building Code adopted hereby, shall apply to work authorized by such permit, except to the extent that the building official shall determine that the application of such provisions to such work would be unreasonable. The burden shall be upon the holder of such permit to show the unreasonableness of such provisions.

155.06 SITE MAINTENANCE. All persons constructing, erecting or altering any building or other structure or performing any other construction of any nature or furnishing materials or performing services within the City shall:

1. Keep the site of such construction clean and free of all refuse, debris, and junk and shall contain or restrict said refuse, debris, and junk on the site of said construction from blowing, depositing or otherwise moving from the site of construction to any adjacent properties or city streets. This shall also include items referred to in Chapter 50 in the City Code as Nuisances.

2. Maintain or cause to be maintained any and all erosion control materials required under Chapter 145 of Johnston Revised Ordinances of 2007, or would otherwise deemed necessary to prevent loss from or potential loss from the site of construction to adjacent properties or city streets.

3. Protect the public from open excavation(s) during the course of construction by way of temporary enclosure or temporary fencing, including but not limited to basement and utility excavations, completed foundations without continued construction activities for more than 14 days’ time.

Failure to maintain the site as specified in this code shall result in a Stop Work Order being issued for the site; in addition to any penalties as detailed in Chapter 3 of the Johnston Revised Ordinances of 2007.

155.07 BUILDING VALUATION DATA. The following reflects data to determine building values:

BUILDING VALUE DATA

The Building Safety Journal as published by the ICC contains the building valuation data table, which represents average costs for structures, which shall be used to determine the valuation of all structures at the time of permitting. Annually, beginning on January 1st the most current Building Valuation Table shall be used to determine the value of all structures for the calendar year. For finished basements in Residential construction $50.00 per square foot as a base cost shall be used. For unfinished basements and garages $20.00 per square foot as a base cost shall be used. Decks over 300 square feet to be valued at $20.00 per square foot. Fully covered decks, screened in or enclosed decks, and 3/4 season rooms shall be valued at finished room price per square foot.

The unit costs are intended to include architectural, structural, electrical, plumbing, and mechanical work, except as specifically listed below. It also includes the contractor’s profit, which should not be omitted if he/she has a financial interest in the project.
The determination of plan review fees for projects reviewed by the city will be based on valuations computed from the Building Safety Journal published by ICC, Building Valuation Data.

In addition to building fees there will be a $25.00 charge for dwellings and $50.00 charge for commercial and industrial buildings for the issuance of zoning/occupancy certificate.

**155.08 ENERGY COMPLIANCE FEE.** There is established the following schedule of fees to be charged by the city for the review of plans and the inspection of construction for compliance with the requirements of the Iowa Building Code Commissioner regarding energy standards and the Iowa State Building Code.

1. For buildings containing more than one 100,000 cubic feet of enclosed space that is heated or cooled, the fee shall be an amount equal to two percent of the building permit fee as set forth in this Chapter, or $20.00, whichever amount is greater;
2. For all other buildings, the fee shall be an amount equal to ten percent of the building permit fee as set forth in this Chapter, or $20.00, whichever amount is greater.

**155.09 STREET PROTECTION.** No person constructing, erecting or altering any building or other structure or performing any other construction of any nature or furnishing materials or performing services therefor within the City shall drive across or cause any vehicle, trailer, implement, equipment, materials or supplies to cross any street curbing without adequately protecting the street curbing from damage thereby. In addition, safety of the roadway shall be maintained by use of barricades or other traffic control equipment during work on or adjacent to the roadway. If the building official determines unsafe conditions exist due to excessive construction materials deposited on the street or open curb cuts, the City may clean debris or set proper traffic control devices and charge the builder a minimum fee of $200.00.

**155.10 GOVERNMENT EXEMPT.** The provisions of this Chapter shall not apply to the Federal Government.

**155.11 BOARD OF APPEALS.** For the purpose of hearing and deciding any appeal that is authorized in the City Building Code, Electrical Code, Mechanical Code and Plumbing Code, there is created an appeal board consisting of five members appointed for staggered terms of five years. The Board members shall be selected on the basis of their knowledge of the building industry. The appointments shall be made by the Mayor with approval of a majority of Council members. The Mayor shall name the Chairperson of the Board. Each appointee shall serve until his or her successor is named and qualifies. Terms expire on June 30. An appeal, if authorized, shall be taken as provided in the particular code concerning the subject matter of the appeal.

**155.12 CONVERSION TO HORIZONTAL PROPERTY REGIME OR MULTIPLE HOUSING COOPERATIVE.** Any person or entity seeking to establish a horizontal property regime or multiple housing cooperative for residential purposes, including a person or entity seeking to convert an existing structure to condominiums or a multiple housing cooperative by establishing a horizontal property regime pursuant to Iowa Code chapter 499B or by establishing a multiple housing cooperative pursuant to Iowa Code chapter 499A shall establish and document compliance with all building code requirements of the City applicable
upon the date the City receives the declaration of the horizontal property regime or articles of incorporation of the multiple housing cooperative.

1. Documentation of Compliance with Building Code Requirements. Documentation of building code compliance shall be evidenced by submittal of the following:
   A. Two copies of an as-built plan for the entire structure.
   B. A building code analysis prepared by a licensed architect or professional engineer demonstrating that the structure conforms with the current building codes, or can be brought into conformance with the current building codes by planned improvements to be made to the structure.
   C. Two copies of construction plans for planned improvements to be made to the structure to bring it into conformance with the current building codes.

2. Conversion Fee. A conversion fee shall be paid prior to issuance of a certificate of occupancy. The fee shall be calculated according to the rate established for miscellaneous fees as found in Section 155.03.9.1B of the City of Johnston Code of Ordinances.

3. Certificate of Occupancy. Upon receipt of the documents and the conversion fee as provided above, the Building Official shall review the building code analysis and conduct such inspections of the structures as may be deemed appropriate to determine whether or not the structure conforms with the requirements of this section. If the Building Official determines that the structure has been shown to be in substantial compliance with the requirements of this section a certificate of occupancy shall be issued for use of the structure as a horizontal property regime or a multiple housing cooperative. If the structure has not been shown to be in substantial compliance with the requirements of this section, written notice shall be issued to the applicant of any violations of applicable code requirements.

*(Ch. 155 - Ord. 971 – Nov. 17 Supp.)*
[The next page is 915]
CHAPTER 156
PLUMBING CODE

156.01 PURPOSE; RELIANCE UPON CHAPTER. It is the purpose of this chapter to require architects, builders, contractors, property owners, their agents and others, to meet their responsibilities with respect to proper construction, construction techniques and premises safety and to provide for inspection as a means of compelling compliance therewith. It is the responsibility of the permit holder to meet State or Federal regulations. It is not the purpose of this chapter to create any duty on the part of the City, its officers, agents or employees, owing to any individual member of the public or to protect any particular or circumscribed class of persons. Specifically, it is not the intent of this chapter to create any duty or liability by the City, its officers, agents or employees, to premises occupants, owners, tenants or any other persons. No person shall place reliance upon this chapter, any inspections performed or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to indicate in any way a decrease in the risk associated with the use or occupancy of any premises. A certification that a premises has been inspected pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of that premises.

156.02 INTERPRETATION. The statements of legislative intent made in Section 156.01 shall govern and take precedence over any other language contained in this chapter or the International Plumbing Code adopted in this chapter.

156.03 CODE ADOPTED. The 2015 Edition of the International Plumbing Code and its Appendices B, C, D, and E, are hereby adopted, except as provided in this chapter, and shall be known as the “Johnston Plumbing Code.” An official copy of such code is on file in the office of the city clerk.

(Ord. 969 – Nov. 17 Supp.)

156.04 DELETIONS, MODIFICATIONS AND AMENDMENTS. The following deletions, modifications and/or amendments are made to the International Plumbing Code, 2012 Edition.

(Ord. 931 – June 15 Supp.)

1. Section 101 Amended. Subsection 101.1 Title of the International Plumbing Code shall be amended as follows: Delete “Plumbing Code of [name of jurisdiction]” and substitute “Johnston Plumbing Code.”

2. Section 103 Amended. Subsection 103.1 General is hereby modified by deleting Department of Plumbing Inspections and inserting Building Department thereto.

3. Section 109 Amended. Section 109.1 Application for Appeal of the International Plumbing Code shall be amended as follows: The “Board of
Appeals” referred to in the International Plumbing Code shall be the Board of Appeals appointed pursuant to the Building Code of the City.

4. Section 106 Modified. Subsection 106.6.2 Fee Schedule is hereby modified by deleting (jurisdiction to insert appropriate schedule) and inserting the following table thereto:

<table>
<thead>
<tr>
<th>Plumbing Permit Fee Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Residential</strong> - $90.00 base fee per dwelling unit</td>
</tr>
<tr>
<td><strong>Residential Remodel/Addition/Miscellaneous</strong> - $45.00 base fee</td>
</tr>
<tr>
<td><strong>New Commercial/Addition</strong> - $90.00 base fee plus</td>
</tr>
<tr>
<td>$3.00 per fixture for the first 10</td>
</tr>
<tr>
<td>$2.00 per fixture for all additional fixtures</td>
</tr>
<tr>
<td><strong>Commercial Remodel/Miscellaneous</strong> - $45.00 base fee plus</td>
</tr>
<tr>
<td>$3.00 per fixture for the first 10</td>
</tr>
<tr>
<td>$2.00 per fixture for all additional fixtures</td>
</tr>
</tbody>
</table>

Except as provided by law, where work is started without obtaining a permit the Building Official may charge a fee not to exceed twice the original building fee.

At the Building Official’s discretion, inspections may be scheduled after normal working hours or on weekends. However, permit holders requesting such inspections shall pay $90 per hour the inspector works, with a minimum charge for two hours.

5. Section 106 Amended. Subsection 106.6.3 Fee Refund of the International Plumbing Code shall be amended as follows: Whenever “Specify Percentage” is used in this section substitute eighty percent.

6. Section 106 Permits of the International Plumbing code is modified by adding a new subsection 106.7.1 Contractor License Required at the end thereof:

106.7.1 Contractor License Required. No person, firm or corporation shall employ any person, firm or corporation to engage in construction, reconstruction, alteration or repair or any plumbing or building drainage system in or for any building in the city, unless such person, firm or corporation has registered their State of Iowa Master license. At no time shall any apprentice perform any plumbing work unless they are actually in the presence of, and with, a duly licensed journeyman plumber.

Exception: Homeowners may apply for a permit when performing work on their own primary or non-rental/non-commercial property.

(Ord. 969 – Nov. 17 Supp.)

7. Section 106 Permits. Section 106.2 Exempt work is modified by inserting the following subparagraph thereto:

3. No fees shall be collected on plumbing work done by or for the City of Johnston, Iowa or the Federal Government.


9. Section 108 Amended. Subsection 108.5 Stop Work Orders of the International Plumbing Code shall be amended as follows: Insert $100.00
where the first [amount] is printed and $200.00 where the second [amount] is printed in the sentence.

10. Section 305 Amended. Subsection 305.4.1 of the International Plumbing Code is deleted in its entirety and the following substituted in lieu thereof:

305.4.1 Sewer Depth. Building sewers that connect to private sewage disposal systems shall be governed and regulated by the Polk County Department of Health. Building sewers that connect to a public sewer shall be a minimum of 12 inches below frost line when it exits the structure.

(Ord. 931 – June 15 Supp.)

11. Section 603 Amended. Section 603 Water Service of the International Plumbing Code is modified by adding a new subsection at the end as follows:

603.1.1 Materials. Service pipe from water main to meter shall be of copper with brass fittings. All other approved materials may be used after the meter with the approval of the authority having jurisdiction.

Exception: The Building Official and Public Works Director may accept other designs based on distance from main.

12. Section 311 Toilet Facilities For Workers is deleted in its entirety.

13. Section 604 Amended. Subsection 604.10.3 Access is hereby modified by deleting the sentence in its entirety and adding the following sentence thereto:

All manifolds/similar plumbing appurtenance shall be readily accessible.

14. Section 504.7.1 Pan Size and Drain is hereby modified by adding the following exception thereto:

Exception: Schedule 40 PVC may be used for drain piping if one inch in size or larger.

(Ord. 969 – Nov. 17 Supp.)

156.05 EXEMPTIONS. The provisions of this code shall not apply to the United States of America or any of its agencies and the State.

156.06 CONFLICT WITH CODE. The words and numbers used in this chapter shall prevail if and when there is a variance in the words and numbers used in this chapter and in the International Plumbing Code and its Supplement adopted in this chapter.
CHAPTER 157
ELECTRICAL CODE

157.01 PURPOSE; RELIANCE UPON CHAPTER. It is the purpose of this chapter to require architects, builders, contractors, property owners, their agents and others, to meet their responsibilities with respect to proper installation, construction, construction techniques and premises safety and to provide for inspections and fees as a means of compelling compliance therewith. It is not the purpose of this chapter to create any duty on the part of the City, its officers, agents or employees, owing to any individual member of the public or to protect any particular or circumscribed class of persons. Specifically, it is not the intent of this chapter to create any duty or liability by the City, its officers, agents or employees, to premises occupants, owners, tenants or any other person. No person shall place reliance upon this chapter, any inspections performed or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use or occupancy of any premises. A certification that a premises has been inspected pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of that premises.

157.02 INTERPRETATION. The foregoing statements of legislative intent shall govern and take precedence over any other language contained in this chapter or the National Electrical Code adopted in this chapter.

157.03 ADOPTION. The 2014 Edition of the National Electrical Code, as adopted by the State of Iowa Electrical Board with State Amendments, published by the National Fire Protection Association, except those provisions thereof which are hereinafter deleted, modified or amended, is adopted as and shall constitute the “Electrical Code of the City of Johnston, Iowa” to regulate the practice and materials used in the installation, maintenance, extension and alteration of all wiring, fixtures, appliances and appurtenances in connection with various electrical systems in the city. The same is, by this reference, incorporated in this chapter as fully and completely as if set forth in full in this chapter. The use of the term “National Electrical Code” in this chapter shall be interpreted to refer to the National Electrical Code, Current Edition.

(Ord. 967 – Nov. 17 Supp.)

157.04 SCOPE. The provisions of this chapter shall apply to:

1. The electrical conductors, equipment and materials installed within or on public and private buildings and other premises;

2. The conductors that connect the installation to a supply of electricity and other outside conductors on the premises;
Additions to, alterations of and repairs to existing electrical equipment covered by this chapter shall comply with its provisions. When such additions, alterations or repairs are made, the Electrical Inspector may order other reasonable additions or alterations in a building or structure or on premises, when a danger to life or property may result if such other additions or alterations are not made. Installations which were in compliance with this chapter in existence at the time such installations were made shall be presumed to be safe and proper, which presumption may be rebutted by evidence that the installation may be dangerous to life or property. If the classification of a building has been changed due to a change in occupancy, the wiring in the entire building shall comply with all the electrical standards applicable to the new classification. If the occupancy of a building has been changed to a mixed occupancy, each occupancy shall comply with its own particular classification and shall be wired in compliance with the electrical standards of its particular classification.

157.05 APPLICATION TO MOVED BUILDINGS. Buildings or structures moved into or within the City shall comply with the provisions of this chapter for new buildings or structures.

157.06 DELETIONS, MODIFICATIONS AND AMENDMENTS. The following deletions, modifications and/or amendments are made to the National Electrical Code, 2011 Edition: (Ord. 931 – June 15 Supp.)

1. Chapter 1 General is modified by adding a new article thereto after Article 110 as follows:

**Article 120**  
Permits and Registration

<table>
<thead>
<tr>
<th>Table 120.1</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>Electrical Permit Fee Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>New Residential</strong> - $110.00 base fee per dwelling unit</td>
</tr>
<tr>
<td><strong>Residential Remodel/Addition/Miscellaneous</strong> - $55.00 base fee</td>
</tr>
<tr>
<td><strong>New Commercial/Addition</strong> - $115.00 base fee plus</td>
</tr>
<tr>
<td>$3.00 per fixture for the first 10 fixtures</td>
</tr>
<tr>
<td>$2.00 per fixture for all additional fixtures</td>
</tr>
<tr>
<td><strong>Commercial Remodel/Miscellaneous</strong> - $60.00 base fee plus</td>
</tr>
<tr>
<td>$3.00 per fixture first 10</td>
</tr>
<tr>
<td>$2.00 per fixture over 10</td>
</tr>
</tbody>
</table>

Except as provided by law, where work has been started prior to obtaining a permit, the regular fee therefore may be doubled at the discretion of the Building Official.

At the discretion of the Building Official, inspections may be scheduled after normal working hours or on weekends. However, permit holders requesting such inspections shall pay $90 per hour the inspector works, with a minimum charge of two hours.

120.1 Permit Fees. Only those individuals or firms holding a State Class A or B (with restrictions see FPN) Electrical Contractor License can obtain a permit to perform said work in the City of
Provisional licenses will not be accepted. Permit fees shall be based on Table 120.1.

Exception: Homeowners may apply for a permit when performing work on their own primary or non-rental/non-commercial property. Homeowner must pass a written exam prior to commencement of work and approval of permit, such exam shall be written and administered by the Building Official.

Those individuals holding a Residential Master Electricians License shall be able to only work on One (1) or Two (2, Duplex) family dwellings.

(Ord. 96–Nov. 17 Supp.)

FPN: The City of Johnston will accept only those Class B Licenses issued to current Master or Journeymen License holders. The applicant for a permit shall show proof of prior licensing with the City of Johnston and current State Class B license or proof of application to the State at time of application for permit. Effective January 1, 2010, only those holding a State Class A will be able to pull a permit within the City.

120.2 Electrical Contractor’s Registration. No person shall engage in the activity, or represent themselves to the public as engaging in the activity of installing, altering, maintaining or repairing any electrical equipment within the scope of this subchapter unless they have first registered with the City their State Electrical Contractor’s License and those parties responsible for obtaining permits. Nothing contained in this section shall be deemed to exclude the performance of maintenance or sign wiring work by electrical contractors. The provisions of this section shall not apply to nor be deemed to include, the electrical work of a public utility, telephone, telegraph or railroad company where such electrical work is an integral part of the plant used by such companies in rendering its duly authorized service to the public.

2. Chapter 2, Article 210-8 Ground-Fault Circuit-Interrupter (A) Dwelling Units is hereby modified by deleting subparagraph (7) and inserting the following paragraph thereto:

(7) All general-purpose receptacles within a six foot radius of a water source. All general-purpose receptacles in a laundry/mud room or similar location.

3. Article 210-52 (A) (2) Wall Space is modified by adding a new subparagraph thereto as follows:

A hallway greater than or equal to three feet in width that has an alcove or recessed floor area greater than or equal to one foot by two foot uninterrupted by doorways shall have an outlet meeting the requirements of Section (10) Spacing. Hallways greater than or equal to seven feet by seven feet shall be considered an intervening room and shall meet the requirements of Section (10) Spacing.
(For the purpose of applying this section a hallway is a room that is a minimum three feet x three feet with room dividers parallel to each other. Stairway guardrails are considered room dividers.)

(Ord. 967 – Nov. 17 Supp.)

157.07 OFFICIAL COPY. An official copy of the electrical code, as adopted by this chapter, including the certificate of the Clerk as to its adoption and effective date, is on file in the office of the Clerk.

157.08 OUTSTANDING PERMITS. If an electrical permit is outstanding, the provisions of this chapter and the electrical code adopted hereby shall apply to work authorized by such permit, except to the extent that the electrical inspector shall determine that the application of such provisions to such work would be unreasonable. The burden shall be upon the holder of such permit to show the unreasonableness of such provisions.

157.09 GOVERNMENTS EXEMPT. The provisions of this code shall not apply to the United States of America and the State of Iowa or any of their agencies.

157.10 CONFLICT WITH CODE. The words and numbers used in this chapter shall prevail if and when there is a variance in the words and numbers used in this chapter and in the National Electrical Code, adopted in this chapter.

[The next page is 945]
CHAPTER 158
MECHANICAL CODE

158.01 PURPOSE; RELIANCE UPON CHAPTER. It is the purpose of this chapter to require architects, builders, contractors, property owners, their agents and others, to meet their responsibilities with respect to proper construction, construction techniques and premises safety and to provide for inspections as a means of compelling compliance therewith. It is not the purpose of this chapter to create any duty on the part of the City, its officers, agents or employees, owing to any individual member of the public or to protect any particular or circumscribed class of persons. Specifically, it is not the intent of this chapter to create any duty or liability by the City, its officers, agents or employees, to premises occupants, owners, tenants or any other person. No person shall place reliance upon this chapter, any inspections performed or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use or occupancy of any premises. A certification that a premises has been inspected pursuant to this chapter shall not in any way constitute a warranty or guarantee of the safety or quality of that premises.

158.02 INTERPRETATION. The statements of legislative intent made in Section 158.01 shall govern and take precedence over any other language contained in this chapter or the Uniform Mechanical Code adopted in this chapter.

158.03 CODE ADOPTED. The 2015 Edition of the International Mechanical Code and Appendix A, is hereby adopted, except as provided in this chapter, and shall be known as the “Johnston Mechanical Code.” An official copy of such code is on file in the office of the city clerk.

(Ord. 968 – Nov. 17 Supp.)

158.04 ADDITIONS, DELETIONS, MODIFICATIONS AND AMENDMENTS. The International Mechanical Code and Appendix A, 2012 Edition, are hereby amended as follows:

(Ord. 931 – June 15 Supp.)

1. Section 101 Amended. Section 101.1 Title shall be amended as follows: delete [Name of Jurisdiction] and insert “City of Johnston.”

2. Section 106 Amended. Section 106.5.2 Fee Schedule shall be amended as follows: insert the following table where it says [Jurisdiction to Insert Appropriate Schedule].
Mechanical Permit Fee Schedule

<table>
<thead>
<tr>
<th>Permit Type</th>
<th>Fee Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Residential</td>
<td>$90.00 base fee per dwelling unit</td>
</tr>
<tr>
<td>Residential Remodel/Addition/Miscellaneous</td>
<td>$45.00 base fee plus $10.00 per 100,000 BTU HVAC</td>
</tr>
<tr>
<td>New Commercial/Addition</td>
<td>$90.00 base fee plus $10.00 per 100,000 BTU HVAC</td>
</tr>
<tr>
<td>Commercial Remodel/Miscellaneous</td>
<td>$45.00 base fee plus $10.00 per 100,000 BTU HVAC</td>
</tr>
</tbody>
</table>

Except as provided by law, where work is started without obtaining a permit the Building Official may charge a fee not to exceed twice the original building fee.

At the Building Official’s discretion, inspections may be scheduled after normal working hours or on weekends. However, permit holders requesting such inspections shall pay $90 per hour the inspector works, with a minimum charge for two hours.

3. Section 106 Amended. Section 106.5.3 Fee Refunds shall be modified by inserting 80 percent where it says [Specify Percentage] in subsentences 2 and 3.

4. Section 108 Amended. Section 108.4 Violation Penalties is deleted in its entirety. (This is covered in Chapter 3 of the Johnston Code of Ordinances.)

5. Section 109 Amended. Section 109 Means of Appeal is deleted in its entirety. The “Board of Appeals” referred to in the International Mechanical Code shall be the Board of Appeals appointed pursuant to the Building Code of the City.

6. Contractor License Required. Except as otherwise provided herein, no person shall engage, or represent himself to the public as engaging in the activity or business of installing, altering or repairing any of the mechanical equipment or systems for which permits are required by this code unless such persons shall have first obtained from the State of Iowa, a contractor’s license of the class hereinafter required for the particular work in which such State Mechanical Contractors License will be acceptable. The mechanical contractor must register with the City of Johnston their State license and the responsible party/s for pulling permits. No license holder shall engage in work which is not included under the classification for which they hold a State of Iowa License for.

EXCEPTIONS:

1. Any person installing, altering, or repairing incinerators or cooling towers shall be permitted to perform such work without holding any of the licenses otherwise required herein.

2. Any public utility or gas supply company that is regularly engaged in the business of supplying gas service to the public shall be permitted to perform the following services without holding any of the licenses otherwise required herein.
a. Make minor repairs to, or adjustments on, gas appliances or equipment.

b. Install gas piping fittings incidental to the installation or relocation of gas meters and domestic gas appliances, clothes dryers and incinerators.

3. Any person holding a current plumbing contractor’s license from the State of Iowa may obtain permits for the installation or repair of gas piping, boilers and water heaters without holding any of the licenses prescribed herein.

4. Homeowners may apply for a permit when performing work on their own primary or non-rental/non-commercial property.

(Ord. 968 – Nov. 17 Supp.)

7. Section 106 Amended. Section 106 Permits thereof is modified by adding a new subsection at the end thereof as follows:

106.7 Exemption from fees. No fees shall be collected on mechanical work done by or for the City of Johnston, Iowa or the Federal Government.

(Ord. 968 – Nov. 17 Supp.)

8. Chapter 1 Amended. Chapter 1 Administration is modified by adding a new section at the end thereof as follows:

Section 111 Indemnity. The applicant for any permit under the Johnston Mechanical Code, by making such application, assumes and agrees to pay for all loss or damage to property whatsoever, and injury to or death of any person or persons whomsoever, including all costs and expenses incident thereto, however arising from or in connection with or related to the issuance of such permit 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 the Johnston Mechanical Code or any other ordinances of the City; and such applicant, by making such application, forever indemnifies the City, its officers and employees and agrees to save it and them harmless from any and all claims, demands, lawsuits or liability whatsoever for any loss, damage, injury or death, costs and expenses, by reasons of the foregoing even though acts or omissions of the City, its officers or employees may have caused or contributed thereto. The foregoing provisions shall be deemed to be a part of the permit issued under the Johnston Mechanical Code whether expressly recited therein or not.

(Ord. 968 – Nov. 17 Supp.)

9. Section 903 Amended. Section 903 Factory-Built Fireplaces is modified by adding a new sentence after 903.3 Unvented gas log heaters as follows:

The use of unvented gas log fireplaces or heaters shall require the installation of a carbon monoxide detector within the same areas.

(Ord. 801 – Apr. 09 Supp.)
158.05 OUTSTANDING PERMITS. If a mechanical permit is outstanding, the provisions of this chapter and the mechanical code adopted by this chapter shall apply to the work authorized by such permit, except to the extent that the mechanical inspector shall determine that the application of such provisions to such work would be unreasonable. The burden shall be upon the holder of such permit to show the unreasonableness of such provision.

158.06 GOVERNMENTS EXEMPT. The provisions of this code do not apply to the United States of America or any of its agencies, and the State.

[The next page is 961]
CHAPTER 159

FIRE CODE

159.01 Purpose. The purpose of this chapter is to prescribe regulations governing conditions hazardous to life and property from fire and explosion, handling or use of hazardous materials and the use and occupancy of buildings and premises.

159.02 Warning - Reliance Upon Chapter. No person shall place reliance upon this chapter, any inspections performed or certificates issued pursuant to this chapter, as indicating the safety of or quality of construction of any particular premises. Neither this chapter nor inspections made pursuant thereto nor certificates issued are intended to assume the duty of any person to adequately construct and maintain a premises or provide a safe premises or to, in any way, indicate a decrease in the risk associated with the use or occupancy on any premises. A certification that a premises has been inspected pursuant to this chapter shall not, in any way, constitute a warranty or guarantee of the safety or quality of that premises.

159.03 Interpretation. The statements of legislative intent made in Section 159.02 shall govern and take precedence over any other language contained in this chapter or the International Fire Code, 2015 Edition, adopted in this chapter.

159.04 Adoption of International Fire Code. The International Fire Code, 2015 Edition, published by the International Code Council, commencing with Chapter 1, except those provisions thereof which are, in this chapter, deleted, modified or amended, is adopted as and shall constitute the Fire Code of the City, prescribing regulations governing conditions hazardous to the general welfare of the City and the same is, by this reference, incorporated in this chapter as fully and completely as if set forth in full in this chapter subject to the foregoing. The Fire Code of the City may also be known, referred to and cited as the “Fire Code”.

159.05 Enforcement. The Fire Code shall be enforced by the Fire Chief of the fire department and the Building Official.

159.06 Department of Fire Prevention. The Department of Fire Prevention is established within the City under the direction of the Fire Chief which shall consist of such fire department personnel as may be assigned thereto by the Fire Chief and who shall be designated by the Fire Chief. The function of the Department of Fire Prevention shall be to assist the Fire Chief in the performance of his/her duties and to assist the Building Official in the performance of the inspection duties. It is the intent that the inspection assistance rendered
to the Building Official shall be in the form of technical assistance and advice upon request and the inspection herein prescribed as designated by the Council.

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

1. Wherever the word “jurisdiction” is used in the International Fire Code, it shall be held to mean the City of Johnston, Iowa.

2. Wherever the term “Fire Code Official” is used it shall be held to mean “Fire Chief” or a duly authorized representative.

159.08  STORAGE OF FLAMMABLE OR COMBUSTIBLE LIQUIDS IN OUTSIDE ABOVEGROUND TANKS.

1. The limits that are placed on Chapter 57 (IFC), in which outside aboveground storage of flammable or combustible liquids is restricted, are hereby established as the entire City of Johnston, Iowa, with the following exceptions:

   A. Any new outside installation of a generator for commercial properties that is not fueled by natural gas shall be limited to a Class II fuel supply necessary to allow for twenty-four (24) hours of emergency operations in a NFPA/UL compliant sub-base tank. (Documentation from the generator manufacturer must be submitted to support the fuel tank capacity) A permit is required and the proposed installation must be approved by the Fire Code Official prior to issuance of a permit.

   B. Approved bulk storage facility for the sale or storage of fuels as permitted by the Zoning Ordinance.

2. The limits that are placed on Chapter 57 (IFC), in which new bulk plants of flammable or combustible liquids are prohibited, are hereby established as all zoning districts in the City except M-2 Heavy Industrial.

159.09  BULK STORAGE OF LIQUEFIED PETROLEUM GAS. The limits that are placed on Section 6104.2(IFC), in which storage of liquefied petroleum gases is to be restricted to, are hereby established as the entire City of Johnston, Iowa.

159.10  STORAGE OF EXPLOSIVES AND BLASTING AGENTS. The limits that are placed on Section 5601.1(IFC), in which storage of explosives and blasting agents is to be restricted to, are hereby established as all zoning districts in the City except M-2 Heavy Industrial. A site plan must be submitted, identifying the desired location of the proposed tank(s) and a permit will be required.

159.11  ADDITIONS, DELETIONS, MODIFICATIONS AND AMENDMENTS. The following additions, deletions, modifications and amendments are made to the International Fire Code (IFC), 2015 Edition:

1. Chapter 1

   Section 102 amended –Applicability

   Section 102.3, of the IFC, is hereby amended by deleting section 102.3, Change of Use or Occupancy and inserting in lieu thereof the following:
Section 102.3 Change of use or occupancy. No change shall be made in the use or occupancy of any structure, or tenant space, in the case of a multi-tenant building, that would place the structure in a different division of the same group or occupancy or in a different group of occupancies, unless such structure or tenant space is made to comply with the requirements of this Fire Code Ordinance, or the requirements of this Code (whichever is more restrictive) and the International Building Code. Subject to the approval of the fire code official, the use or occupancy of an existing structure shall be allowed to be changed and the structure shall be allowed to be occupied for purposes in other groups without conforming to all requirements of this Fire Code Ordinance, or the requirements of this Code (whichever is more restrictive and the International Building Code for those groups, provided the new or proposed use is less hazardous, based on life and fire risk, than the existing use.

Section 105 amended – Permits

Section 105.1.1, of the IFC, is hereby amended by adding the following sentence:

The types of permits that may be required and the rates for such permits shall be established by the City Council in the form of an ordinance and/or resolution.

Section 114 addition – General (additions to existing structures)

Chapter 1, of the IFC, is hereby amended by adding a new section, 114, as follows:

Section 114 General. Additions to buildings or structures shall comply with all of the requirements of Section 903.2 of this Code for new buildings or structures. The entire building or structure, existing and proposed additions, shall comply with all of the requirements of the fire sprinkler Section 903.2 of the Fire Code for new buildings and structures, when the total of all the additions to the building or structure made after May 31st, 1993, exceeds twenty-five (25) percent of the original gross area of the building or structure.

2. Chapter 3

Section 308 amended - Open Flames

Section 308.1.4 Open-flame cooking devices. Charcoal burners, other open-flame cooking devices, and other devices that produce ashes or embers shall not be operated on balconies or within 20 feet (3048 mm) of combustible construction. Location of LP containers shall comply with Section 6104.

Exceptions:

1. One- and two-family dwellings, constructed in accordance with the International Residential Code.

2. Where buildings, balconies, and decks are protected by an automatic sprinkler system.
3. **Chapter 5**

**Section 503 amended – Fire Apparatus Access Roads**

Section 503, of the IFC, is hereby amended by deleting section 503.2.1, and inserting in lieu thereof the following:

**Section 503.2.1 – Dimensions.** Fire apparatus access roads shall have a minimum unobstructed width of not less than 20 feet, exclusive of shoulders, except for approved security gates in accordance with Section 503.6, and an unobstructed vertical clearance of not less than 14 feet.

**Section 505 amended – Premises Identification**

Section 505, of the IFC, is hereby amended by deleting section 505.1, and inserting in lieu thereof the following:

**Section 505.1 Address identification.** New and existing buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall be black or white and shall contrast with their background. Where required by the fire code official, address numbers shall be provided in greater dimension or additional approved locations to facilitate emergency response. Address numbers shall be Arabic numbers or alphabetical letters. Numbers and letters shall be a minimum height and a minimum stroke width as dictated by Table 505.1. Where access is by means of a private road and the building cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure. Address numbers shall be maintained.

**Table 505.1**

**Minimum Height and Stroke Width**

<table>
<thead>
<tr>
<th>Distance from the centerline of the Public Way (ft.)</th>
<th>Minimum Height (in)</th>
<th>Minimum Stroke Width (in)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Less than 100</td>
<td>4</td>
<td>0.5</td>
</tr>
<tr>
<td>100</td>
<td>199</td>
<td>6</td>
</tr>
<tr>
<td>200</td>
<td>29</td>
<td>8</td>
</tr>
<tr>
<td>For each additional 100</td>
<td>Increase 2</td>
<td>Increase 0.5</td>
</tr>
</tbody>
</table>

*a* Exterior suite identification, minimum height shall be 4 inches and stroke width shall be ½ inch.

*b* Interior suite identification, minimum height shall be 2 inches and stroke width shall be ¼ inch.

**Section 506 amended – Key Boxes**

Section 506, of the IFC, is hereby amended by deleting section 506.1, and inserting in lieu thereof the following:
Section 506.1 Where Required. All commercial and multi-tenant buildings and any building provided with a fire alarm system or a sprinkler system shall be provided with a key box at the front of the building typically adjacent to the main entrance or at a location as directed by the fire code official. Key Boxes, manufactured exclusively by the Knox Corporation, shall be acquired, at building owners expense, from the Knox Corporation, utilizing the online ordering information found on the Knox Corporation website. If an existing building (Excluding 1 and 2 family dwellings), not so equipped, is remodeled, this building must install a key box, prior to occupancy.

Section 507 additions and amendments – Fire Protection Water Supplies

Section 507.5.1, of the IFC, is hereby amended by deleting said section, including exceptions, and inserting in lieu thereof the following:

Section 507.5.1 Where required. Where any portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 150 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided when required by the fire code official.

Exception:
Subdivisions consisting entirely of R-3 occupancies, which fall under Johnston City Code 180.36, shall adhere to the spacing requirements of 180.36.

Section 507.5.1.1, of the IFC, is hereby amended by deleting said section, including exceptions, and inserting in lieu thereof the following:

Section 507.5.1.1 Hydrant for fire department connections. Buildings equipped with a fire department connection installed in accordance with Section 912 shall have a fire hydrant located on a fire access road within 100 feet (30 m) of the fire department connection as measured by an approved route around the exterior of the building.

Exception:
The distance shall be permitted to exceed 100 feet (30 m) where approved by the fire code official.

Section 507.5.5, of the IFC, is hereby amended by deleting said section, and inserting in lieu thereof the following:

Section 507.5.5 Clear space around hydrants. A 5-foot (1524 mm) horizontal clear space shall be maintained around the circumference of fire hydrants, as measured from the center-point of the hydrant, except as otherwise required or approved.

Section 507.5, of the IFC, is hereby amended by adding two new sections, 507.5.7 and 507.5.8, as follows:
Section 507.5.7 Fire Hydrant Markers and Identification Color.
When required by the Fire Code Official, hydrant locations shall be identified by the installation of an approved reflective marker. Both public and private hydrants shall comply with and be painted to Local Water Utility specifications.

Section 507.5.7 Fire Hydrant Markers and Identification Color.
When required by the Fire Code Official, hydrant locations shall be identified by the installation of an approved reflective marker. Both public and private hydrants shall comply with and be painted to Local Water Utility specifications.

Section 508 amended – Fire Command Center
Section 508, of the IFC, is hereby amended by deleting section 508.1, and inserting in lieu thereof the following:

Section 508.1 General. Where required by other sections of this code, Table 508.1, and in all buildings classified as high-rise buildings by the International Building Code, a fire command center for fire department operations shall be provided and shall comply with Sections 508.1.1 through 508.1.6.

Table 508.1 Fire Command Center Thresholds

<table>
<thead>
<tr>
<th>Occupancy</th>
<th>Threshold Requiring a Fire Command Center</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group A</td>
<td>1,000 occupants</td>
</tr>
<tr>
<td>Group E</td>
<td>100,000 gross s.f.</td>
</tr>
<tr>
<td>Group F</td>
<td>200,000 gross s.f.</td>
</tr>
<tr>
<td>Group I-2 or I-3</td>
<td>100,000 gross s.f.</td>
</tr>
<tr>
<td>Group M</td>
<td>100,000 gross s.f.</td>
</tr>
<tr>
<td>Group R1</td>
<td>Greater than 200 dwelling units or sleeping units</td>
</tr>
</tbody>
</table>

Section 511 addition - Fire Service Features
Chapter 5, of the IFC, is hereby amended by a new section, 511, as follows:

Section 511 Fire and Emergency Vehicle Lanes.

Section 511.1 General. Fire and emergency vehicle lanes shall be provided and maintained in accordance with section 511.1 through 511.6, and referred to as fire lanes in this ordinance.

Section 511.2 Purpose. The requirement that Fire Lanes be established in certain parking areas and the enforcement of restrictions on parking in such Fire Lanes established in this Chapter are designed to ensure adequate access to commercial, office, multi-family, and other high density use facilities by fire-fighting and other emergency vehicles.
Section 511.3. Designation. The Fire Code Official may designate fire lanes on private and public property as deemed necessary for the protection of life and property.

Section 511.4 Obstruction. No person shall park or place a vehicle or other obstruction in a designated fire lane that would prevent such fire lane from being immediately accessible to emergency vehicles, or deter or hinder emergency vehicles from gaining immediate access to the fire lane. A written request to the jurisdictional Fire Code Official for temporary obstruction of a fire lane shall be submitted for approval.

Section 511.5 Signs and markings. Wherever a fire lane has been designated, the Code Official shall cause appropriate signs and markings to be placed identifying such fire lanes. Signs or markings shall be maintained in a clean and legible condition at all times and shall be replaced or repaired when necessary to provide adequate visibility. Fire lanes may be established or relocated at the time of plan review, pre-construction site inspection, and/or post construction site inspection, as well as any time during the life of the occupancy as needed to provide and maintain emergency vehicle access. All designated fire lanes shall be clearly marked in the following manner:

1. Vertical curbs shall be painted red on the top and side, extending the length of the designated fire lane. Rolled curbs or surfaces without curbs shall have a red (6) inch wide stripe painted the length of the designated fire lane. One of the following identification lettering methods shall be utilized:

   A. The words “NO PARKING – FIRE LANE (Except for Emergency Vehicles)” shall be stenciled with three (3) inch white letters and a minimum three – quarter (¾) inch stroke on the face of the curbing, or in the absence of vertical curbing, on the red stripe, and spaced at fifty (50) foot intervals or portions thereof, or

   B. The pavement adjacent to the painted curbs shall be marked with minimum eighteen (18) inch in height block lettering with a minimum three (3) inch brush stroke reading: “NO PARKING - FIRE LANE.” Lettering shall be red and spaced at fifty (50) foot intervals or portions thereof.

2. Signage identifying fire lanes shall conform to the following: Fire lane signs shall be 18 inches tall x 12 inches wide with red letters on a white reflective background to read “Fire Lane No Parking Except For Emergency Vehicles” or similar verbiage as approved by the code official. Fire lane signs shall be placed 2 - 4 feet from the edge of the Fire Lane. The bottom of fire lane signs shall be between five (5) and seven (7) feet from the ground. Intermediate fire lane signs shall be set every one hundred (100) feet in a continuous fire lane. The BEGINS sign shall mark the beginning of a fire lane and shall be mounted below the first fire lane sign. The ENDS sign shall mark the ending of a fire lane and shall be mounted
below the last fire lane sign. The BEGINS and ENDS signage may be omitted by the Code Official due to the location of the fire lane. Signs may be placed on a building when approved by the Fire Code Official.

Section 511.6 Maintenance. The owner, manager, or person in charge of any property upon which designated fire lanes have been established shall provide marking as required above and, shall maintain fire lanes at their expense as often as needed to clearly identify the designated area as being a fire lane.

4. Chapter 6

Section 604 addition – Emergency and Standby Power Systems

Section 604, of the IFC, is hereby amended by adding two new sections, 604.8 and 604.9, as follows:

Section 604.8 Shutdown of Emergency and Standby Power Systems. In addition to the requirements of NFPA 110 for a remote manual stop, a switch of an approved type shall be provided to shut down the generator. The switch shall be provided at an approved location.

Section 604.9 Emergency Generator Signs. Main electrical disconnects and main breaker panels supplied by the generator shall be provided with approved signs. Additionally, doors accessing emergency and standby power systems shall be provided with approved signs. When approved switches for emergency power shutoff are located remote from the fire alarm annunciator, an approved sign shall be provided at fire alarm annunciator. Approved signs shall contain the word CAUTION in black letters at least 2 inches (50 mm) high on a yellow background. Such warning signs shall be placed so as to be readily discernible.

Section 606 deletion – Mechanical Refrigeration

Section 606.12.2, of the IFC is hereby amended by deleting item #5 "By other approved means."

Section 609 deletion - Commercial Kitchen Hoods

Section 609.2, of the IFC is hereby amended by deleting the Exception.

5. Chapter 7

Section 703 amended - Fire-Resistance-Rated Construction

Section 703.2.3, of the IFC, is hereby amended by deleting said section, and inserting in lieu thereof the following:

Section 703.2.3 Door Operation. Swinging fire doors shall close from the full open position and latch automatically. The door closer shall:

1. Exert enough force to close and latch the door from any partially open position.
2. Be UL listed and of hydraulic type, spring type shall not be allowed.

6. **Chapter 8**

   **Section 806 deletion - Decorative Vegetation in New and Existing Buildings**

   Section 806.1, of the IFC is hereby amended by deleting exception #2 "Trees shall be allowed within *dwelling units* in Group R-2 occupancies."

7. **Chapter 9**

   **Section 901 addition – General**

   Section 901.4.6, of the IFC (correlation: IBC 901.8), is hereby amended by adding the following sentence at the end of the section:

   "A fire sprinkler riser room shall not be exclusively accessed from an electrical room, but an electrical room may be accessed from the fire sprinkler riser room."

   **Section 903 amendments, and additions – Automatic Sprinkler System**

   Section 903.2, of the IFC (correlation: 903.2), is hereby amended by deleting said section, including, all subsections, tables, and exceptions, and inserting in lieu thereof the following:

   **Section 903.2 Where Required.** An approved automatic fire extinguishing system is required if the gross square footage of a building is equal to or greater than the following:

   **For the purposes of this Section,** "fire separations" shall not be permitted to reduce the total gross square footage of a building or area for the purpose of calculating the fire sprinkler square footage requirements.

   **For the purposes of this Section,** "story" shall be defined as any level of a structure, whether above or below grade capable of occupancy.

   **Exemption.** To be exempt from meeting the requirements to have fire sprinklers systems installed, the buildings or structures per legal lot or contiguous lots under common ownership, must be separated by twenty feet (20’) and have 1 hour rated exterior walls on both buildings or structures so as not to have the combined total of their gross square footage applied to this Section of the Code. Note: The square footage used for calculating total “gross square footage” of a building or structure shall be measured using the outside dimensions of the total building or structure to include attached or detached buildings or structures meeting the above requirements.

   **Open Corridors/Hallways** shall be required to have fire sprinklers installed in them when the building they are constructed in is required by this code to have a fire sprinkler system.
“An approved automatic fire extinguishing system” includes but is not limited to a complete automatic fire sprinkler system. The following Sections requiring complete automatic fire sprinkler systems shall install the fire sprinkler system following NFPA 13 standard unless otherwise noted. Alternative automatic extinguishing systems may be used if in the opinion of the Code Official the same life safety and property conservation measures are equivalent to the NFPA standard listed in this Code.

Subsections 903.2.1, 903.2.2, 903.2.3, 903.2.4, 903.2.5, 903.2.6, 903.2.7, 903.2.8, 903.2.9, and 903.2.10, of the IFC, are hereby amended by deleting said sections, including all subsections, and exceptions, and inserting in lieu thereof the following:

Section 903.2.1. Group A to read as follows: Sprinklers Required At:

**Group A:**

**NFPA 13 A-1.** Building or structures, or portions thereof, having an assembly use, usually with fixed seating, intended for the production and viewing of the performing arts or motion pictures including but not limited to: See IFC Occupancy Classification definition A-1.

1. Occupant load of 299 or less. 6,000 s.f.
2. Occupant load of 300 or more. 0 s.f.

**NFPA 13 A-2.** Building or structures, or portion thereof, having an assembly use intended for food and/or drink consumption including but not limited to: See IFC Occupancy Classification definition A-2.

1. Occupant load of 50 or more. 0 s.f.
2. Occupant load of 49 or less. 1,500 s.f.

**NFPA 13 A-3.** Building or structures, or portions thereof, having an assembly use intended for worship, recreation or amusement and other assembly uses not classified elsewhere in Group A including but not limited to: See IFC Occupancy Classification definition A-3.

1. Occupant load of 299 or less. 6,000 s.f.
2. Occupant load of 300 or more. 4,500 s.f.

**NFPA 13 A-4.** Building or structures, or portions thereof, having an assembly use intended for viewing of indoor sporting events and activities with spectator seating including but not limited to: See IFC Occupancy Classification definition A-4.

1. Occupant load of 299 or less. 6,000 s.f.
2. Occupant load of 300 or more. 4,500 s.f.

**NFPA 13 A-5.** Building or structures, or portions thereof, having an assembly use intended for participation in or viewing of outdoor activities including but not limited
to: See IFC Occupancy Classification definition A-5 and IFC Section 903.2.1.5 for areas to be provided with protection.

1,000 s.f.

Section 903.2.2 Group B to read as follows: Sprinklers Required At:

Group B: Building or structures, or portions thereof, used for office, professional or service type transactions, including storage of records and accounts. Business occupancies shall include but not be limited to: See IFC Occupancy Classification definition B.

6,000 s.f.

Section 903.2.3 Group E to read as follows: Sprinklers Required At:

Group E: Building or structures, or portions thereof, used by six or more persons at any one time for educational purposes.

0 s.f.

NFPA 13 A Licensed Day Care is any buildings or structures, or portions thereof, used for educational, supervision or personal care services for more than five children older than 2 years of age and which shall be classified as an E occupancy.

0 s.f.

Section 903.2.4 Group F to read as follows: Sprinklers Required At:

Group F: F-1. Moderate hazard factory and industrial occupancies including factory and industrial uses not classified as Group F, Division 2 Occupancies shall include but not be limited to: See IFC Occupancy Classification definition F-1.

6,000 s.f.

NFPA 13 F-1.1. Woodworking operations which generate finely divided combustible waste or uses finely divided combustible materials.

2,500 s.f.

NFPA 13 F-2. Low-hazard factory and industrial uses that involve the fabrication or manufacturing of noncombustible materials which during finishing, packing or processing do not involve a significant fire hazard shall include but not be limited to: See IFC Occupancy Classification definition F-2.

15,000 s.f.

Section 903.2.5 Group H. to read as follows: Sprinklers Required At:

Group H: H-1. Buildings or structures or portions thereof, that pose a detonation hazard: See IFC Occupancy Classification definition H-1.

0 s.f.

NFPA 13 H-2. Buildings or structures, or portions thereof, which contain materials that pose a deflagration hazard or a...
hazard from accelerated burning: See IFC Occupancy Classification definition H-2.

NFPA 13  **H-3.** Building or structures, or portions thereof, which contain materials that readily support combustion or pose physical hazard: See IFC Occupancy Classification definition H-3.

NFPA 13  **H-4.** Building or structures, or portions thereof, which contain materials that are health hazards: See IFC Occupancy Classification definition H-4.

NFPA 13  **H-5.** Semiconductors fabrication facilities and comparable research and development areas in which production materials are used. Such facilities and areas shall be designed and constructed in accordance with Section 415.11 of the IBC (2015). Design of the sprinkler system shall not be less than Table 903.2.5.2.

NFPA 13  Pyroxylin plastics. Buildings or structures where cellulose nitrate film or pyroxylin plastics are manufactured, stored or handled in quantities exceeding 100 pounds.

Section 903.2.6 **Group I to read as follows:** Sprinklers Required At:

**Group I:**

NFPA 13D or NFPA 13R  **I-1.** Building or structures, or portions thereof, housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment but which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. A facility such as the above with five or fewer persons shall be classified as Group R-3. A facility such as the above with at least six and not more than 16 persons shall be classified as Group R-4.

NFPA 13  **I-2.** Building or structures, or portions thereof, used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than four persons who are not capable of self-preservation. A facility such as the above with four or fewer persons shall be classified as Group R-3. Child care facilities are any buildings or structures, or a portion thereof, which provide care on a 24-hour basis to more than five children 2 ½ years of age or less which shall be classified at Group I-2.

NFPA 13  **I-3.** Building or structures, or portions thereof, which are inhabited by more than five persons who are under restraint or security. See IFC Occupancy Classification definition I-3 for type of condition.
NFPA 13  
**I-4.** Building or structures, or portions thereof, which are occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage or adoption and in a place other than the home of the person cared for. A facility such as the above with five or fewer persons shall be classified as Group R-3. Places of worship during religious functions are not included.  
0 s.f.

NFPA 13  
Adult care facilities provide accommodations for less than 24 hours for more than five unrelated adults and provides supervision and personal care services. Child care facilities provide supervision and personal care on less than a 24 hour basis for more than five children 2 ½ years of age or less.  
0 s.f.

**Section 903.2.7 Group M to read as follows:** Sprinklers Required At:  
**Group M:** Building or structures, or portions thereof, for the display and sale of merchandise, and involving stocks of goods, wares or merchandise, incidental to such purposes and accessible to the public shall include but not be limited to: See IFC Occupancy Classification definition Group M.  
6,000 s.f.

**Section 903.2.8 Group R to read as follows:** Sprinklers Required At:  
**Group R:**  
- **R-1.** Hotels, motels, boarding houses (transient). (Occupy less than 30 days)  
0 s.f.  
- **R-2.** Apartment houses, Condominiums, Boarding houses (non-transient), Convents Dormitories, Fraternities and Sororities  
0 s.f.  
- **R-3.** Dwellings  
8,000 s.f.  
- **R-3.** Townhouse  
In addition, townhouses, less than 8,000 s.f., that are not open on at least two sides are required to install fire sprinkler systems set forth in the IFC 2015 Edition.  
8,000 s.f.  
- **R-4.** Residential Care/Assisted Living Facilities for more than five but not more than 16 occupants, excluding staff.  
0 s.f.
Section 903.2.9 Group S to read as follows: Sprinklers Required At:

**Group S**

**S-1.** Moderate hazard storage occupancies including buildings or portions of buildings used for storage of combustible materials not classified as Group S, Division 2 or Group H occupancies but not be limited to: See IFC Occupancy Classification definition S-1.

NFPA 13

6,000 s.f.

**Group S**

Self Storage to include buildings or portions thereof used for the storage of personal belongings including but not limited to: household goods, recreational vehicles, passenger vehicles, and watercraft, where access to the storage spaces is secured and limited to the person(s) renting the storage space through a single entrance to each individual space.

A Group S-1 self storage fire area is located more than three stories above grade plane.

12,000 s.f.

NFPA 13

Commercial truck or bus storage. To include motor vehicles used to transport passengers or property where the motor vehicle:

1. Has a gross vehicle weight rating of 10,000 or more; or

2. Is designed to transport 16 or more passengers, including the driver.

5,000 s.f.

**Group S**

**S-2.** Low hazard storage occupancies including buildings or portions of buildings used for storage of noncombustible materials but not be limited to: See IFC Occupancy Classification definition S-2.

NFPA 13

15,000 s.f.

Section 903.2.10 Group U to read as: Sprinklers Required At:

**Group U:** Private garages, carports, sheds and agricultural n/a buildings.

Section 903.2.11.1, of the IFC (correlation: 903.2.11.1.3), is hereby amended by deleting said section, and inserting in lieu thereof the following:

**Section 903.2.11.1.3 Basements.** Where any portion of a basement is located more than 75 feet (22 860 mm) from openings required by Section 903.2.11.1, the basement shall be equipped throughout with an approved automatic sprinkler system.
Section 903.4.2, of the IFC (correlation: 903.4.2), is hereby amended by deleting said section, and inserting in lieu thereof the following:

**Section 903.4.2 Alarms.** An approved weather proof audible device suitable for outdoor use with 110 candela visual signal shall be connected to every automatic sprinkler system. Such sprinkler water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of the building in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

**Section 903.3.6 amended – Hose Threads**

Section 903.3.6, of the IFC, is hereby amended by deleting said section, and inserting in lieu thereof the following:

**Section 903.3.6 Hose Threads.** Fire hose threads and fittings used in connection with automatic sprinkler systems shall be approved and shall be a siamese compatible with 2 ½ “fire department hose threads, unless approved by the Fire Code Official.

Section 903, of the IFC, is hereby amended by adding a new section, 903.7, as follows:

**Section 903.7 Fire Sprinkler for canopies.** A canopy covering a door that is required to be marked as an exit shall be required to have fire sprinklers installed outside that door if the canopy extends more than 4 feet out from the door, regardless of whether the canopy is combustible or non-combustible. Canopies that have vehicle access under them with door openings shall be required to have fire sprinklers installed under the total canopy regardless of whether the canopy is combustible or non-combustible.

Exception: If the Code does not require a building to have a fire sprinkler system, section 903.7 does not apply.

**Section 905 addition – Standpipe Systems**

Section 905.3, of the IFC, is hereby amended by adding a new section, 905.3.9 (correlation: IBC 905.3.9), as follows:

**Section 905.3.9 Building Footprint and Access.** Where the most remote portion of a floor or story is more than 400 feet from a hose connection or fire department access road the fire code official is authorized to require standpipes to be provided in approved locations. Class I manual standpipes shall be allowed.

**Section 907 amendments and additions – Fire Alarm and Detection Systems:**

Section 907.1, of the IFC (correlation: IBC 907.1.4), is hereby amended by adding a new section, 907.1.4, as follows:

**907.1.4 FACP (Fire Alarm Control Panels).** Each building shall have no more than 1 FACP. Installation of fire alarm panel shall not
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exceed six feet in height measured from the floor to the top of the unit.

**Exception:** Suppression system releasing panels are not required to meet the height requirement or the limitation in the number of panels.

Section 907.2, of the IFC (correlation: IBC 907.2), is hereby amended by deleting said section, and inserting in lieu thereof the following:

**Section 907.2. Where Required.** An approved fire alarm system meeting provisions of this code and NFPA 72 shall be installed when the gross square footage of a building is equal to or greater than the area as specified in Sections 903.2.1 through 903.2.10 inclusive, subject to the authority having jurisdiction or by Section 907 which ever shall be more restrictive. The fire alarm system shall provide occupant notification in accordance with Section 907.5, unless other requirements are provided by another section of this code.

Manual fire alarm boxes shall be required where deemed necessary by the fire code official.

Where corridors and/or hallways are protected by fire sprinkler systems they shall also be protected by smoke detection. Smoke detection shall be of the photoelectric type or as approved by the fire code official.

**Exception:**

1. Buildings with 8 or less initiating devices may use zoned systems provided only one device is used per zone. Each device shall have a plain English LCD (liquid crystal display). This alpha/numeric descriptor location is required to be reported to the Polk County dispatch center upon activation of the fire alarm system.

2. R-3 dwellings are not required to meet Section 907.2 of this Code.

3. Townhomes are required to be monitored only if a single fire sprinkler system is used for multiple units.

Sections 907.2.8 and 907.2.9, of the IFC (correlation: IBC 907.2.8), are hereby amended by deleting said sections, including exceptions, and inserting in lieu thereof the following:

**Section 907.2.8 Group R General.** Group R-1; Group R-2 apartment houses, condominiums and boarding houses (non-transient), convents, dormitories, fraternities, sororities, and monasteries; and Group R-4 shall have a monitored addressable fire alarm system.

Section 907.2.11, of the IFC (correlation: IBC 907.2.11), is hereby amended by deleting said section, including subsections, and exceptions, and inserting in lieu thereof the following:

**Section 907.2.11 Single and Multi-Station Smoke Alarms.** Listed single and multiple-station smoke alarms complying with UL 217
shall be installed in accordance with Sections 907.2.11.1 through 907.2.11.7 and the household fire warning equipment provision of NFPA 72. Smoke alarms in dwelling units shall be addressable with sounder bases and monitored by the building fire alarm system as a supervisory signal only. Mini horns in dwelling units are not required if notification from a building fire alarm system is through the smoke alarms with sounder bases.

Note: Section 907.2.10 only applies to R-1, R-2, R-4, and I-1.

Section 907.6.3, of the IFC (correlation: IBC 907.6.3), is hereby amended by deleting exceptions 1 and 2, and inserting in lieu thereof the following:

**Section 907.6.3 Exception 1.** Fire alarm systems with 8 or less initiating devices may use zoned systems provided only one device is used per zone. Each device shall have a plain English LCD (liquid crystal display). This alpha/numeric descriptor location is required to be reported to the Polk County dispatch center upon activation of the fire alarm system.

Section 907.6.3, of the IFC (correlation: IBC 907.6.3.2), is hereby amended by adding a new section, 907.6.3.2, as follows:

**Section 907.6.3.2 Zone and address location labeling.** Fire alarm panels shall have all zones and address points plainly and permanently labeled as to their location on the outside of the panel or on an easily readable map of the building, if no display screen is present.

Section 907.6.6, of the IFC (correlation: IBC 907.6.6), is hereby amended by deleting said section, including exceptions, and inserting in lieu thereof the following:

**Section 907.6.6 Monitoring.** Fire alarm systems required by this chapter or by the International Building Code shall be monitored by a central station approved and listed under UL 827 in accordance with NFPA 72.

**Exception:** Monitoring station is not required for:
1. Automatic sprinkler and fire alarm systems in one- and two-family dwellings.

**Section 910 amendments and additions – Smoke and Heat Vents:**

Section 910.2, of the IFC (correlation: IBC 910.2), is hereby amended by adding the following exception:

**Section 910.2 Exception 4.** The Code Official may require smoke removal equipment to be installed if it is deemed necessary for the protection of life and property.

Section 910.2.1, of the IFC (correlation: IBC 910.2.1), is hereby amended by deleting said section, and inserting in lieu thereof the following:

**Section 910.2.1 Group F-1 or S-1.** Smoke and heat vents installed in accordance with Section 910.3 or a mechanical smoke removal
system installed in accordance with Section 910.4 shall be installed in buildings and portions thereof used as a Group F-1 or S-1 occupancy having more than 30,000 square feet (2787 m²) of undivided area. In occupied portions of a building equipped throughout with an automatic sprinkler system in accordance with 903.3.1.1, where the upper surface of the story is not a roof assembly, a mechanical smoke removal system in accordance with Section 910.4 shall be installed.

**Exception:** Group S-1 aircraft repair hangars.

**Section 912 amended – Fire Department Connections**

Section 912.4.2, of the IFC, is hereby amended by deleting said section, and inserting in lieu thereof the following:

**Section 912.4.2 Clear space around connections.** A working space of not less than 60 inches in width, 60 in depth and 78 inches in height shall be provided and maintained in front of and to the sides of wall-mounted fire department connections and around the circumference of free-standing fire department connections, and if the fire department connection is accessible from a designated parking area, the space in front of the connection shall be marked “No Parking”, except as otherwise required or approved by the Fire Chief.

Section 914.3.1.2, of the IFC (correlation: IBC 403.3.2), is hereby amended by deleting said section, including exceptions, and inserting in lieu thereof the following:

**914.3.1.2 Water supply to required fire pumps.** Required fire pumps shall be supplied by connections to a minimum of two water mains located in different streets. Separate supply piping shall be provided between each connection to the water main and the pumps. Each connection and the supply piping between the connection and the pumps shall be sized to supply the flow and pressure required for the pumps to operate.

**Exception:** Two connections to the same main shall be permitted provided the main is valved such that an interruption can be isolated so that the water supply will continue without interruption through at least one of the connections.

8. **Chapter 10**

**Section 1008 amendments and additions - Means of Egress Illumination**

Section 1008.2, of the IFC (correlation: IBC 1008.2.3), is hereby amended by adding a new section, 1008.2.3, as follows:

**Section 1008.2.3 Additional emergency lights.** Emergency lights may be required at the discretion of the code official to clarify an exit or exit access.
Section 1008.3.1, of the IFC (correlation: IBC 1008.3.1), is hereby amended by deleting said section, and inserting in lieu thereof the following:

**Section 1008.3.1 General.** In the event of the power supply failure in rooms and spaces that require two or more means of egress or are 400 square feet or greater, an emergency electrical system shall automatically illuminate all of the following areas:
1. Aisles.
2. Corridors.
3. Exit access stairways and ramps.

Section 1008.3.2, of the IFC (correlation: IBC 1008.3.2), is hereby amended by deleting said section, and inserting in lieu thereof the following:

**Section 1008.3.2 Buildings.** In the event of the power supply failure in rooms and spaces that require two or means of egress or are 400 square feet or greater an emergency electrical system shall automatically illuminate all of the following areas:
1. Interior exit access stairways and ramps
2. Interior and exterior exit stairways and ramps.
3. Exit passageways.
4. Vestibules and areas on the level of exit discharge used for exit discharge in accordance with Section 1028.1.
5. Exterior landings as required by Section 1010.1.6 for exit doorways that lead directly to the exit discharge.

Section 1008.3.3, of the IFC (correlation: IBC 1008.3.3), is hereby amended by deleting Item #5, and inserting in lieu thereof the following:

5. Restrooms containing more than one water closet/urinal or that are accessible.

**Section 1009 addition - Accessible Means of Egress:**

Section 1009.2, of the IFC (correlation: IBC 1009.2), is hereby amended by adding Item #11, as follows:

11. Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.

**Section 1010 additions - Doors, Gates and Turnstiles:**

Section 1010.1.6, of the IFC (correlation: IBC 1010.1.6.1), is hereby amended by adding a new section, 1010.1.6.1, as follows:

**Section 1010.1.6.1 Landings at doors.** For landings required by Section 1010.1.5 to be at the same elevation on each side of the door exterior landings at doors shall be provided with frost protection.

Section 1010.1.9.1, of the IFC (correlation: IBC 1010.1.9.1), is hereby amended by adding new language to the end of the section, as follows:

Thumb Turn Locks shall not be allowed.
Section 1013 addition and deletion – Exit Signs:

Section 1013.1 of the IFC (correlation: IBC 1013.1.1), is hereby amended by adding a new section, 1013.1.1, as follows:

**Section 1013.1.1 Additional Exit Signs:** Exit signs may be required at the discretion of the code official to clarify an exit or exit access.

Section 1013.3, of the IFC (correlation: IBC 1013), is hereby amended by deleting said section, including exceptions, and inserting in lieu thereof the following:

**Section 1013.3 Exit Sign Illumination.** Exit signs shall use an LED lighting system and be illuminated internally. Exit signs are required to have battery backup unless an onsite generator is used. Luminance on the face of an exit sign shall have intensity of not less than 5.0 foot-candles (53.82 lux).

**Exception:**
Tactile Exit signs required by Section 1013.4 need not be provided with illumination.

Section 1013.5, of the IFC (correlation: IBC 1013.5), is hereby amended by deleting said section, and not replacing with any language.

Section 1013.6, of the IFC (correlation: IBC 1013.6), is hereby amended by deleting said section, including 1013.6.1, 1013.6.2, and 1013.6.3, and not replacing with any language.

**Section 1028 addition - Exit Discharge**

Section 1028.5, of the IFC (correlation: IBC 1028.5.1), is hereby amended by adding a new section, 1028.5.1, as follows:

**Section 1028.5.1 Components of exterior walking surfaces shall be concrete, asphalt, or other approved hard surface.**

**Section 1030 addition - Emergency Escape and Rescue**

Section 1030.5, of the IFC (correlation: IBC 1030.5.3), is hereby amended by adding a new section, 1030.5.3, as follows:

**Section 1030.5.3 Window wells drainage.** All window wells shall be provided with approved drainage.

9. **Chapter 23**

**Section 2306 amended – Flammable and Combustible Liquid Motor Fuel-Dispensing Facilities**

Section 2306.2.5 Portable Tanks is hereby amended by defining the time limit as thirty calendar days. Uses exceeding thirty calendar days will require a new permit application.

20. **Chapter 32**

**Section 3202 amended – Definitions**

Section 3202, of the IFC, is hereby amended by adding new language as follows:
SPECULATIVE BUILDING. A Group S, F or M occupancy having an interior clear height greater than 12 feet (3657 mm) where high-piled storage may accrue and the client leasing or the occupant owner does not know the commodity that will be stored or the method of storage.

Section 3206 amendments and additions - General Fire Protection and Life Safety Features

Section 3206.2, of the IFC, is hereby amended by adding a new section, 3206.2.1, as follows:

Section 3206.2.1 Speculative building. Group S, F and M speculative buildings that have an interior clear height greater than 12 feet where high piled storage may accrue shall comply with this chapter.

Section 3206.4, of the IFC, is hereby amended by adding a new section, 3206.4.2, and subsections 3206.4.2.1 through 3206.4.2.7

Section 3206.4.2 Sprinkler design.

Section 3206.4.2.1 General. The design of automatic sprinkler systems for the protection of Group M and S occupancies containing high-piled storage or high-challenge commodities over an area equal to or greater than 2,500 ft.² (232 m²) and designed for the protection of hazardous materials stored more than one pallet high in Group M, S or H occupancies, shall be in accordance with this section. This section does not apply to miscellaneous storage within the scope of NFPA 13.

Section 3206.4.2.2 Requirements for all plan submittals. See Section 903.1.9. and 3201.3 for plan submittal requirements.

Section 3206.4.2.3 Minimum design requirements for speculative warehouses. The design of the automatic sprinkler system for speculative warehouses shall be based on storage of a cartoned Class A nonexpanded plastic to the available storage height. The storage height shall be determined by subtracting 48 inches (from the highest point of the roof above each system for ESFR and 30 inches for area density applications.

Section 3206.4.2.4 Minimum requirements for client leased or occupant-owned warehouses. The design of an automatic sprinkler system for client leased or occupant owned buildings containing high piled storage shall be based on the requirements of NFPA 13. The responsible Fire Protection Contractor shall perform a survey of the building to determine commodity classification, storage configuration, building height and other information related to the development of an appropriate sprinkler system design. The Contractor shall also make reasonable efforts to meet with the building owner or operator to understand seasonal or customer related fluctuations to the stored commodities, storage height, and configuration.
CHAPTER 159

The sprinkler design shall be based on the most demanding requirements determined through the on-site survey and discussions with the building owner or operator. Technical Report shall clearly define the basis for determining the commodity and sprinkler design selection, along with how the commodities will be isolated or separated, and the referenced design document(s), including NFPA 13 or the current applicable Factory Mutual Data Sheets. If a specific fire test is used as the basis of design, a copy of the fire test report shall be provided at the time of plan review.

Section 3206.4.2.5 Required information at plan submittal. All plans, hydraulic calculations and technical reports shall be submitted with the plan submittal form. The individual submitting the design package shall ensure that all of the required information requested on the plan submittal form is included.

Section 3206.4.2.6 Minimum plan information requirements. In addition to the requirements of NFPA 13, the following information shall be included in the plans or technical report.

Section 3206.4.2.6.1 Class I-IV and Group A plastic commodities.

A) An owner's certificate in accordance with NFPA 13. The design criteria, e.g., NFPA 13, Factory Mutual Data Sheet, or a specific fire test report.

B) A Water Supply Flow & Pressure Test Report performed within 90 days of the plan submittal

C) The type of design, e.g., Control Mode Density/Design Area Method; Specific Application Control Mode Method; Suppression Mode Method, including appropriate code references.

D) A description of the stored commodities and how the commodity classification was determined.

E) A layout of the proposed storage arrangement. If the storage is in racks, a plan and elevation detail illustrating rack heights, flue dimensions and arrangement. This detail is not required for speculation warehouses.

F) The aisle dimensions between each storage array.

G) If a high challenge commodity is separated using fire-resistive construction, the boundary of the fire-resistive construction shall be illustrated.

H) A data sheet for the backflow preventer. If a data sheet is not available, the design professional shall include a statement addressing the minimum required pressure loss.

I) A data sheet for each installed automatic sprinkler.

J) A data sheet for each pipe hanger used to hang or support the sprinkler piping.

K) If a fire pump will be installed or used, the manufacturer’s factory test curve shall be included in the submittal.
L) A cross-section view illustrating obstructions to the ceiling sprinklers, e.g., lights, structural members, cable trays, electrical bus ducts and HVAC ductwork.

**Section 3206.4.2.6.2 Hazardous materials.** In addition to the requirements of this section, the following information shall be included in a *hazardous materials* technical report.

A) A hazardous materials inventory statement

B) For flammable & combustible liquids, an analysis of the miscibility of Class I liquids, the size and type of the packaging, the packaging materials of construction, and if the containers have a pressure relieving mechanism.

C) For Level 2 or 3 aerosols, a statement indicating that the aerosols are cartoned or uncartoned.

**Section 3206.4.2.7 Identification of sprinkler system capabilities and limitations.** A label shall be permanently installed at or adjacent to each sprinkler riser. When a building contains more than four risers, the sign shall be located at an approved location inside the building. The minimum sign dimension is 6-inches (152 mm) high by 4-inches (101 mm) wide. The sign shall specify the capabilities and limitations of the *automatic sprinkler system*. The sign shall include the following information:

A) The design base or basis, including the edition used

B) A statement indicating if the sprinkler design is control mode density area method, control mode specific application, suppression mode, or any combination thereof.

C) When used, all of the storage conditions stipulated NFPA 13 for Special Designs.

D) The maximum storage height

E) The minimum required aisle width

F) If storage is in racks, the maximum rack width and minimum transverse and longitudinal flue widths.

G) Storage Capabilities: Commodities designed to be protected by the automatic sprinkler system

H) Limits on storage heights of idle wood and plastic storage

I) Limits on storage heights of miscellaneous Group A plastic, tire and rolled paper storage

J) Locations where in-rack sprinklers are required

K) Locations where horizontal and/or vertical barriers are required

L) Information explaining the manufacturer, sprinkler identification number, k-factor, and operating temperature of the overhead sprinklers protecting the high-piled storage.

M) Fire Protection Contractor contact information
The following example illustrates a suggested label or sign:

### Automatic Sprinkler System Capabilities & Limitations

<table>
<thead>
<tr>
<th>Stored Commodity</th>
<th>Class I water miscible flammable liquids in 1 &amp; 5 gallon polyethylene containers in fiberboard cartons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Design Type</td>
<td>Control Mode, Density/Area Method</td>
</tr>
<tr>
<td>Max. Storage Height</td>
<td>25 feet</td>
</tr>
<tr>
<td>Min. Aisle Width</td>
<td>8 feet</td>
</tr>
<tr>
<td>Max. Rack Width</td>
<td>9 feet</td>
</tr>
<tr>
<td>Flue Dimensions</td>
<td>Longitudinal: Min. 6 inches Transverse: Min. 3 inches</td>
</tr>
<tr>
<td>System Capabilities</td>
<td>Class I-V commodities, stored commodity, solid pile or palletized Group A plastics to 12 feet; rack storage of Group A plastics to 25 feet.</td>
</tr>
<tr>
<td>Idle Pallets</td>
<td>6 feet maximum storage height</td>
</tr>
<tr>
<td>Tire Storage</td>
<td>5 feet maximum storage height</td>
</tr>
<tr>
<td>Rolled Paper Storage</td>
<td>5 feet maximum storage height</td>
</tr>
<tr>
<td>In-rack sprinklers</td>
<td>In-rack sprinklers are required at each of 3 rack tiers containing the stored commodity. In-rack sprinklers are Tyco/Central FS-B, 17/32” orifice, OR 155°F element, SIN TY0041</td>
</tr>
<tr>
<td>Horizontal Barriers</td>
<td>Required at each rack tier containing the stored commodity.</td>
</tr>
<tr>
<td>Ceiling Sprinkler</td>
<td>Tyco ELO-231B, 16” orifice, SR 286°F element, up/down, SIN TY0030</td>
</tr>
<tr>
<td>FP Contractor</td>
<td>ABC Sprinkler Co. Designer: John Smith</td>
</tr>
</tbody>
</table>

11. **Chapter 33**

**Section 3301 amended – General**

Section 3301.2, of the IFC, is hereby amended by deleting said section, and inserting in lieu thereof, the following:

**Section 3301.2 Purpose.** This chapter prescribes minimum safeguards for construction, alteration and demolition operations to provide reasonable safety to life and property from fire and other emergencies during such operations.

**Section 3310 addition - Access for Fire Fighting**

Section 3310.1.1, of the IFC, is hereby amended by adding a new section, 3310.1.1, as follows:

**Section 3310.1.1 Construction Site Access.** *Approved* fire apparatus access roads shall be provided for every facility, building or portion of a building as soon as construction commences. The fire apparatus access road shall comply with the requirements of Section 503.2 and this section and shall extend to within 100 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an *approved* route around the exterior of the building or facility.

**Exception:** The fire code official is authorized to increase the dimension of 100 feet (45 720 mm) where:
1. The building is equipped throughout with an approved automatic sprinkler system that is fully functional and installed in accordance with Section 903.3.1.1, 903.3.1.2 or 903.3.1.3.

2. Fire apparatus access roads cannot be installed because of location on property, topography, waterways, nonnegotiable grades or other similar

12. Chapter 38

Chapter 38 addition - Special Events

Chapter 38, of the IFC, is hereby added as follows:

CHAPTER 38 SPECIAL EVENTS

SECTION 3801 GENERAL

3801.1 Scope. Special events including trade shows and exhibitions, outdoor assembly events, outdoors mazes, special amusement buildings, and special scaffolding structures shall comply with this chapter and Section 1028. Temporary indoor vehicle displays and vehicle competition or demonstrations shall comply with this chapter and Section 314.

3801.2 Site plans. A detailed site plan shall be submitted to the fire code official with each permit application for approval.

1. Outdoor events: The permit application and site plan shall be submitted a minimum of 30 business days prior to the event. Site plans shall include, but not be limited to:

   1. The means of egress.
   2. Location and width of exits and aisles.
   3. Location of exit signs.
   4. Location of fencing or means used to confine attendees.
   5. Total square footage of enclosed space.
   6. Location and arrangement of all tents, booths or cooking equipment.
   7. Locations of fire apparatus access roads.
   8. Location of fire protection equipment.
   9. Type and location of heating and electrical equipment where applicable.
   10. Location of temporary staffed water stations and permanent water fountains.

2. Trade shows and exhibitions: The permit application and site plan shall be submitted a minimum of 30 business days prior to the event. Site plans shall include, but not be limited to:

   1. The means of egress.
   2. Location and width of exits and aisles.
3. Location of exit signs.
4. Total square footage of space.
5. Location and arrangement of all booths and cooking equipment.
6. Location of all fire protection equipment.
7. Type and location of heating and electrical equipment where applicable.
8. Location of covered or multi-level exhibits or booths.

3. Mazes. The permit application and site plan shall be submitted a minimum of 30 business days prior to the event. Site plans shall include, but not be limited to:
   1. Means of egress.
   2. Location and width of exits and aisles.
   3. Location of exit signs.
   4. Total square footage of space.
   5. Location and arrangement of all booths and cooking equipment.
   6. Location of all fire protection equipment.
   7. Location of means to confine attendees.
   8. Locations of fire apparatus access roads.
   9. Type and location of heating and electrical equipment where applicable.
   10. Locations of structures.

At time of permit application, the event coordinator shall submit a letter from the property owner authorizing the use of the site, the address of the site, dates and hours of operation and names and 24-hour phone numbers of at least two principals.

4. Temporary indoor vehicle displays: The permit application and site plan shall be submitted a minimum of 10 business days prior to the display of electric, liquid- or gas-fueled vehicles, boats or other motor craft. Floor plans shall include, but not be limited to:
   1. The means of egress.
   2. Location and width of exits and aisles.
   3. Location of exit signs.
   4. Total square footage of space.
   5. Location and arrangement of all booths and cooking equipment.
   6. Location of all fire protection equipment.
7. Type and location of heating and electrical equipment where applicable.
8. Location and size of exhibits and booths.
9. Location of structures.

**Exception:** Auto dealerships.

5. **Vehicle competition or demonstration.** The permit application and site plan shall be submitted a minimum of 10 business days prior to the competition or demonstration of electric, liquid- or gas-fueled vehicles, boats or other motor craft. A floor plan shall include, but not be limited to:

1. The means of egress.
2. Location and width of exits and aisles.
3. Location of exit signs.
4. Total square footage of space.
5. Location and arrangement of all booths and cooking equipment.
6. Location of all fire protection equipment.
7. Type and location of heating and electrical equipment where applicable.
8. Location and size of exhibits and booths.
9. Location of structures.
10. Location of fire apparatus access roads where applicable.

**SECTION 3802 DEFINITIONS**

3802.1 **Definitions.** The following words and terms are defined in Chapter 2.

**CROSS AISLES.**

**EXHIBITS.**

**FLAME EFFECT.**

**MAIN AISLE.**

**MAZE.**

**OUTDOOR ASSEMBLY EVENT.**

**TEMPORARY STRUCTURES.**

**TRADE SHOWS OR EXHIBITIONS.**

3803 **GENERAL REQUIREMENTS**

3803.1 **Access for firefighting and medical services.** Approved vehicle access for firefighting and medical services shall be provided in accordance with Sections 503 and 512.
3803.2 Combustible storage. Combustible materials stored at special events shall be stored in approved locations and containers.

3803.3 Crowd managers. Crowd managers shall be provided where the fire code official determines that an indoor or outdoor gathering warrants crowd control. Crowd managers shall be in accordance with Section 403.3.

3803.4 Decorative materials and furnishings. Curtains, drapes and decorations including, but is not limited to drapes, signs, banners, acoustical materials, cotton, hay, fabric, paper, straw, moss, split bamboo, and wood chips shall be flame resistant as demonstrated by testing in accordance with NFPA 701, or provide documentation of flame retardancy. Field flame test shall be in accordance with Section 320. Materials that cannot be treated for flame retardancy shall not be used unless approved by the fire code official. This includes but is not limited to oilcloth, tarpaper, nylon, plastic cloth, and other plastic materials.

3803.5 Fire protection equipment clearance. Clearance around all fire protection equipment shall be in accordance with Section 901.4.6.

3803.6 Fire extinguishers. Fire extinguishers shall be in accordance with Section 906 and NFPA 10.

3803.7 Fire watch. Fire watch shall be in accordance with Section 403.12.1.

3803.8 Fireworks, pyrotechnics. Fireworks and pyrotechnics shall comply with Chapter 56.

3803.9 Housekeeping. The special event area and related areas shall be kept free from combustible debris at all times.

3803.10 LP-gas heaters. Fuel supplies for liquefied-petroleum gas-fired heaters shall comply with Chapter 61 of the International Fire Code.

3803.11 Open flame devices. Open flame devices shall comply with Section 308.

3803.12 Waste disposal. Combustible debris shall not be accumulated at special events. Combustible debris, rubbish and waste material shall be removed from special events at the end of each shift of work. Combustible debris, rubbish and waste material shall not be disposed of by burning on the site unless approved.

SECTION 3804 TRADE SHOWS AND EXHIBITIONS

3804.1 General. Trade shows and exhibitions conducted within any occupancy shall comply with Chapter 38.

3804.2 Vehicles. Liquid- and gas-fueled and electric vehicles, boats or other motor-craft and equipment used for display, competition or demonstration within a building shall be in accordance with Section 314.
**3804.3 Means of egress.** Means of egress shall comply with this section and the requirements of Chapter 10.

**3804.3.1 Travel distance.** The maximum travel distance from any point in an exhibit to an exit access aisle shall not exceed 50 feet (15240 mm).

**3804.3.2 Aisles.**

**3804.3.2.1 Aisle width.** Minimum aisle width inside a trade show or exhibition shall comply with the following:

<table>
<thead>
<tr>
<th>Square Footage of Trade Show or Exhibition</th>
<th>Minimum Aisle Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Greater than 15,000 square feet (1393m2)</td>
<td>10 feet (3048mm)</td>
</tr>
<tr>
<td>5,000 square feet (465 square meters) to 15,000 square feet (1393m2)</td>
<td>8 feet (2438mm)</td>
</tr>
<tr>
<td>Less than 5,000 square feet (465 m2)</td>
<td>6 feet (1829mm)</td>
</tr>
</tbody>
</table>

**3804.3.3 Obstructions.** Aisles shall be kept clear of all obstructions, including but not limited to, fixtures and displays of goods for sale, chairs, tables, product, displays, vehicles, and trailer tongues.

**3804.3.4 Exit signs.** Exit signs shall be visible from all locations in the occupancy.

**3804.4 Exhibit construction and materials.** The materials used for an exhibit shall comply with Section 3804.4 and Chapter 8

**3804.4.1 Materials. Shall be one of the following:**

1. Noncombustible or limited-combustible materials.
2. Wood that is greater than ¼-inch (6mm) nominal thickness
3. Wood ¼-inch (6mm) nominal thickness or less that is pressure-treated fire-retardant wood meeting the requirements of NFPA 703, Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials. The product shall be marked or labeled by the manufacturer. The product shall not be painted or similarly modified until the material has been inspected and the marking or labeling verified, or provide documentation acceptable to the fire code official.

**3804.4.1.1 Flame retardant materials.** Materials shall comply with Chapter 8.

**3804.4.1.2 Wall and ceiling coverings.** Textile wall coverings, such as carpeting and similar products used as wall or ceiling finishes shall comply with Chapter 8.

**3804.4.1.3 Plastics.** Plastics shall be limited to those that comply with Chapter 8. Plastics used in trade shows and exhibitions with an occupant load of 300 or more shall be Class A or Class B. Plastics
used in trade shows and exhibitions with an occupant load of less than 300, shall be Class A, Class B or Class C.

3804.5 Combustible materials storage.

3804.5.1 Quantity. Combustible materials shall be limited to a one-day supply.

3804.5.2 Location. Storage of combustible materials behind exhibits, booths, or tents is prohibited. Combustible materials, including but not limited to wood crates, paper and cardboard boxes, shall be stored outside the building in an approved area or in a storeroom having a fire-resistance rating of at least one hour and protected by an approved automatic fire-extinguishing system.

3804.6 Covered exhibits and booths.

3804.6.1 Fire Protection.

3804.6.1.1 Automatic sprinkler systems. An approved sprinkler system shall be provided in covered exhibits and booths exceeding 300 square feet (2787 m²). Each level of multi-level exhibit booths shall be protected throughout, including the uppermost level where the uppermost level is covered with a ceiling.

3804.7 Multi-level booths. Construction documents for all multi-level exhibits shall be approved and stamped by a licensed structural engineer or architect and shall be submitted with the permit application. This includes any exhibit where a live load is proposed above the exhibit area floor level, regardless of the accessibility of the area to the public. Upper levels of multi-level booths with an occupant load greater than 10 persons shall have at least 2 remote exits.

3804.8 Hazardous Materials. Hazardous materials shall comply with this section and Chapters 50 through 67.

3804.8.1 Specific prohibitions. The following hazardous materials shall not be stored, handled or used in trade shows and exhibitions:

1. Division 1.1, 1.2, 1.3, and 1.5 explosives as classified by the U.S. Department of Transportation.
2. Detonable, Class I and Class II organic peroxides.
3. Class I-A flammable liquids.
4. Class 4 and Class 3 oxidizers.
5. Class 4 and Class 3 (unstable) reactive materials.
6. Class 3 water-reactive materials.
7. Pyrophoric materials.
8. Highly toxic materials.
10. Fueling or defueling of flammable or combustible that are stored or used as liquids, cryogenics or compressed gases.
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FIRE CODE

SECTION 3804 DEMONSTRATION COOKING AND WARMING EQUIPMENT OR DEVICES

3804.9 Demonstration cooking and warming equipment or devices.

3804.9.1 General. Cooking and warming devices for demonstration purposes only shall be in accordance with Section 3804.9.

3804.9.2 Public Isolation. Equipment and devices shall be isolated from the public by not less than 4 feet (1219 mm) or by a noncombustible 3-sided barrier between the equipment and devices and the public.

3804.9.3 Protection. Single-well cooking equipment using combustible oils or solids shall meet the following:

1. A noncombustible lid shall be immediately available. The lid shall be of sufficient size to cover the cooking well completely.

2. The cooking surface shall not exceed 288 square inches (1858 cm²).

3. The equipment shall be placed on a noncombustible surface.

4. The equipment shall be separated from each other by a horizontal distance of not less than 2 feet (609mm).

3804.9.4 Cooking equipment shall be separated from combustible materials by a horizontal distance of at least 2 feet (609mm).

3804.9.5 Butane. Butane for cooking equipment shall be limited to one 10 oz. cylinder and one spare in storage, of the same size, per appliance. Storage location shall be approved by the fire code official.

3804.9.5.1 Portable butane-fueled appliances. Portable butane-fueled appliances are allowed in restaurants and in attended commercial food catering operations where fueled by not more than two 10 oz. (284gL) LP-gas capacity, nonrefillable butane containers that have a water capacity not exceeding 1.08 lb. (0.5 kg) per container. The containers shall be directly connected to the appliance, and manifolding of containers is not permitted. Storage of cylinders is limited to 24 containers, with an additional 24 permitted where protected by a 2-hour fire-resistance-rated barrier.

SECTION 3805 OUTDOOR ASSEMBLY EVENTS

3805.1 General. Outdoor assembly events shall be in accordance with this Section 3805 and Chapter 10.

3805.2 Occupant load. The fire code official shall establish an occupant load for the event site.

3805.3 Exits. Exits shall comply with Chapter 10 and be as remote from each other as practical and shall be provided as follows:
### Occupant Load

<table>
<thead>
<tr>
<th>Occupant Load</th>
<th>Minimum Number of Exits</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 500</td>
<td>2</td>
</tr>
<tr>
<td>501 to 1,000</td>
<td>3</td>
</tr>
<tr>
<td>1,001 or 1,500</td>
<td>4</td>
</tr>
<tr>
<td>Each additional 500 persons</td>
<td>36 additional inches of exit width</td>
</tr>
</tbody>
</table>

#### 3805.3.1 Width

The aggregate clear width of exits shall be a minimum of 36 inches wide (914mm) for each 500 persons to be accommodated.

#### 3805.3.2 Signs

Exits shall be identified with signs that read “EXIT”. The signs shall be weather-resistant with lettering on a contrasting background. The lettering shall be of sufficient height and brush stroke to be immediately visible from 75 feet (22,860mm). Placement of the exit signs shall be approved by the fire code official.

#### 3805.4 Concession stands, food booths, and retail booths.

##### 3805.4.1 General

Concession stands, food booths and retail booths shall be in accordance with Section 3805.4.

##### 3805.4.1.1 Distances

A minimum of 20 feet (6096mm) shall be provided between every 150 linear feet (45,720mm) of booth space. A minimum of 30 feet (9144mm) shall be provided between booths used for cooking and the vehicles, generators, or any other internal combustion engines. A minimum of 30 feet (9144 mm) shall be provided between booths used for cooking and amusement rides or devices.

##### 3805.4.2 Cooking appliances or devices.

##### 3805.4.2.1 Public isolation

Cooking appliances or devices shall be isolated from the public by not less than 4 feet (1219 mm) or by a non-combustible 3-sided barrier between the equipment and devices and the public.

##### 3805.4.2.2 Protection

Single-well cooking equipment using combustible oils or solids shall meet the following:

1. A noncombustible lid shall be immediately available. The lid shall be of sufficient size to cover the cooking well completely.

2. The cooking surface shall not exceed 288 square inches (18,580mm).

3. The equipment shall be placed on a noncombustible surface.

4. The equipment shall be separated from each other by a horizontal distance of not less than 2 feet (609mm).

##### 3805.4.2.3 Liquefied petroleum gas (LP-gas)

LP-gas shall be in accordance with Chapter 61 and NFPA 58.
3805.4.2.3.1 **Maximum number and quantity.** A maximum of a total aggregate water capacity of 50 gallons (95L) of LP-gas is permitted at one concession stand or booth used for cooking.

3805.4.2.3.2 **LP-gas high-pressure cylinder hoses.** Hoses shall be designed for a working pressure of 350 PSIG (2413 kPa) with a safety factor of 5 to 1 and shall be continuously marked with LP-GAS, PROPANE, 350 PSI (2413 kPa) WORKING PRESSURE, and the manufacturer’s name or trademark. Hose assemblies, after the application of couplings, shall have a design capability of 700 PSIG (4826 kPa). Hose shall not exceed 12 feet (3638 mm) unless approved by the fire code official.

3805.4.2.3.3 **LP-gas low-pressure cylinder hoses.** Hoses with a working pressure of 5 psig shall be allowed when a fix regulator is set a 5 psi and is connected directly to the LP GAS cylinder. The hose shall not exceed 12 feet (3658 mm) unless approved by the fire code official.

3805.4.3.3 **Storage of containers.** Containers shall be stored in accordance with Chapter 61.

3805.4.4 **Generators / electrical.**

The generators shall be installed at least 10 feet (3048mm) from combustible materials, and shall be isolated from the public by physical guard, fence, or enclosure installed at least 3 feet (914mm) away from the internal combustion power source, and be provided with a compliant portable fire extinguisher per Section 906 and NFPA 10.

3805.4.5 **Temporary water stations.**

When outdoor temperatures are expected to exceed 90°F (35°C), the event sponsor shall provide and maintain a minimum of one staffed water station for each 1,000-projected attendance. The water station shall include adequate water supply, cups, and a means for rapid replenishing of exhausted water. Each water station shall be located as far apart as practicable to allow ease of access for event attendees.

**SECTION 3806 MOBILE FOOD VEHICLES**

3806.1 **General.** Mobile food vehicles which are temporarily or permanently stored on a property where food items are processed or prepared and sold to the public shall comply with this section.

**Exception:** Food peddlers operating a retail food establishment from a vehicle designated to be readily movable in which food is; sold or given away but not composed, compounded, thawed, reheated, cut, cooked, processed or prepared.

3806.2 A Type I hood shall be installed at or above all commercial cooking appliances and domestic cooking appliances used for commercial purposes that produce grease vapors. Commercial kitchen exhaust hoods shall comply with the requirements of the *International Mechanical Code.*
3806.2.1 Maintenance. Hoods shall be inspected, tested, and maintained in accordance with this code and the International Mechanical Code.

3806.2.2 Inspections and tests. Kitchen hood extinguishing systems shall be inspected and tested every six months by a state of Iowa licensed fire protection contractor.

3806.3 Fire extinguishers. Portable fire extinguishers shall be provided within a 30-foot (9144 mm) travel distance of commercial type cooking equipment. An approved 2A:20B:C rated dry chemical fire extinguisher shall be provided within 30 feet (9144 mm) of any commercial cooking equipment. Additionally, cooking equipment involving solid fuels or vegetable or animal oils and fats shall be protected by a Class K rated portable extinguisher in accordance with Section 904.12.5.1 or 904.12.5.2, as applicable.

3806.4 Liquefied petroleum gas (LP-gas). LP-gas shall be in accordance with Chapter 61 and NFPA 58.

3806.4.1 Maximum number and quantity. A maximum of two LP-gas containers with a total aggregate water capacity of 50 gallons (190 L) is permitted at one mobile food vehicle.

3806.4.2 LP-gas cylinder hoses. Hoses shall be designed for a working pressure of 350 psig (2413 kPa) with a safety factor of 5 to 1 and shall be continuously marked with LP-GAS, PROPANE, 350 PSI WORKING PRESSURE, and the manufacturer’s name or trademark. Hose assemblies, after the application of couplings, shall have a design capability of 700 psig (4826 kPa). Hose assemblies shall be leak tested at the time of installation at not less the operating pressure of the system in which they are installed.

3806.5 Location. Mobile food vehicles shall not be located within 20 feet (6096 mm) of buildings, tents, canopies or membrane structures.

SECTION 3807 SPECIAL AMUSEMENT BUILDINGS

3807.1 General. [B] Special amusement buildings shall be in accordance with this section and Section 411 of the International Building Code.

Exception: Amusement buildings or portions thereof, which are without walls or a roof and are constructed to prevent the accumulation of smoke.

3807.2 Use of combustible decorative materials. Use of combustible decorative materials shall be in accordance with Chapter 8.

3807.3 Assistance. Adult monitors with flashlights shall be available to provide assistance in the event someone becomes lost or disoriented. One adult monitor shall be provided for every 60 persons.
3807.4 Automatic sprinkler system. Special amusement buildings shall be equipped throughout with an automatic sprinkler system in accordance with Chapter 9.

3807.4.1 Temporary special amusement buildings. Where the special amusement building is temporary, the sprinkler water supply shall be of an approved temporary means. The sprinkler piping shall be connected to a temporary water supply having sufficient capacity (flow and pressure) to supply residential or standard quick spray response sprinkler heads at a minimum design density of 0.15 gpm (.57 LPM) per square foot of protected floor area. The design shall be based on flowing the six most hydraulically remote sprinkler heads. Should the temporary amusement building contain less than six heads, the design shall assume that all heads are flowing simultaneously.

The temporary water supply may be connected to a domestic water line, a fire line, or temporary on-site storage tank as long as the minimum design densities are met. An indicating type control valve shall be installed in an accessible location between the sprinkler system and the connection to the water supply.

SECTION 3808 MAZES

3808.1 General. Mazes including, but not limited to corn stalk or hedge mazes, shall be in accordance with Section 3808.

3808.1.2 Safe refuge areas. Safe refuge areas shall be established outside of the maze or building and structure, and shall not be closer than 50 feet (15240mm).

3808.1.3 Paths. Paths throughout the maze shall be a minimum of 36 inches (914mm) in width and shall be clear and unobstructed width.

3808.1.4 Separation. A minimum of 20 feet (6096mm) shall be provided between mazes and buildings and structures. The 20-foot (6096mm) clearance shall be free from vegetation and obstructions.

3808.1.5 Means of egress. Each exit shall be a minimum of 6 feet (1828mm) wide.

3808.1.5.1 Travel distance. The maximum travel distance to reach an exit access shall not exceed 75 feet (22,860mm). The travel distance shall be determined by using the maze path.

3808.1.5.2 Number. The travel distance required to reach an exit access shall determine the number of exits required. Locking devices shall remain unlocked on exits when the maze is occupied.

3808.1.5.3 Exit signs. Exit signs shall be provided next to or above each exit. The lettering shall be a minimum of 12 inches (305mm) high with 2-inch (51mm) brushstroke. The signs shall read EXIT with lettering in a color contrasting to the sign’s background.

3808.2 Event plans. The following plans shall be submitted to the fire code official.
3808.2.1 General fire safety plan. The plan shall include, but not be limited to procedures that shall be used to prevent over-drying of vegetation throughout the site, documentation of decorative materials flame-retardancy, the maximum number of attendees.

3808.2.2 Security plan. The plan shall document who shall provide security (e.g., off-duty police officers, sheriff’s posse, employees). All security personnel shall be provided with a 2-way radio and flashlight.

3808.2.3 Evacuation plans. The plan shall document the responsibilities of all on-site employees. The plan shall also document how attendees will be evacuated, and where they will be evacuated.

3808.2.4 Maze rules. Maze rules shall be posted at maze entrance.

3808.3 Employee responsibilities. Each employee shall be familiar with the evacuation plan and with fire extinguisher locations. Documentation of training shall be provided to the fire code official.

3808.3.1 Guides. An employee shall be responsible for guiding a group of not more than 14 attendees through the maze. Each employee shall be provided with a minimum of one flashlight and two-way radio. The employees shall be responsible for detecting and reporting fire or smoke to a competent person posted at the maze main entrance and begin evacuation procedures.

3808.3.2 Main entrance employee. Each maze shall be manned by an employee at the entrance. The employee shall be capable of communicating with the employees and shall be provided with a cellular telephone. When the main entrance employee receives a report of smoke, fire or injury, the employee shall immediately call 9-1-1.

3808.4 Watering. Corn stalk and hedge mazes shall be provided with sufficient water and at a frequency that prevents the vegetation from becoming dry or brittle. Failure to comply with this provision is an imminent hazard and the fire code official shall issue a stop order.

3808.5 Buildings and structures. When buildings and structures are intended to be occupied by attendees, the building and structure shall comply with Section 3807.

SECTION 3809 COVERED MALL BUILDINGS

3809.1 General. Temporary use of the common pedestrian area within a covered mall building for promotional, Group A, Group E, Group M or similar activities shall be in accordance with Section 3809.

3809.2 General requirements.

3809.2.1 Main aisle width. Main aisles shall be a minimum of 10 feet (3048mm) in width or the minimum required means of egress width, whichever is greater, and shall be maintained in accordance with Chapter 10. Main aisles shall not be obstructed.
3809.2.2 Cross aisle width. Cross aisles shall be a minimum of 15 feet (4572mm) in width or the required means of egress width, whichever is greater, and shall be maintained in accordance with Chapter 10.

3809.2.3 Fueled equipment. Liquid- or gas-fueled, or electric appliances, tools, apparatus, craft or vehicles shall be displayed in a mall in accordance with Section 314. LP-gas powered floor maintenance machines may be used when in accordance with Chapter 61.

3809.3 Combustible decorative materials. Combustible decorative materials shall be in accordance with Chapter 8.

13. Chapter 56

Section 5601 addition - General

Section 5601.4, of the IFC, is hereby amended by adding and exception, as follows:

Exception: Persons in charge of fireworks display or pyrotechnic special effect operations may be less than 21 years of age if they possess a valid PGI display fireworks operator certification or equivalent certification approved by the fire code official.

14. Chapter 61

Section 6104 addition and amendment - Location of LP-Gas Containers

Section 6104.2, of the IFC, is hereby amended by deleting said section, including exceptions, and inserting in lieu thereof, the following:

Section 6104.2 Maximum capacity within established limits.

Within the limits established by law restricting the storage of liquefied petroleum gas for the protection of heavily populated or congested areas, the installation of liquefied petroleum gas shall be prohibited unless specifically approved by the fire code official, and in that case the aggregate capacity of any one installation shall not exceed a water capacity of 1,000 gallons (3785 L) (see Section 3 of the Sample Legislation for Adoption of the International Fire Code on page xxi).

Exception: Containers shall not exceed a water capacity of 20 gallons, must be located outside of the building, and used for cooking purposes only.

Section 6104.3, of the IFC, is hereby amended by inserting a new section, 6104.3.3, as follows:

Section 6104.3.3 LP Gas Containers in Group R Occupancies. LP Gas shall not be stored or used inside of a building.
15. Appendices

Adopting Appendix I

Appendix I is being adopted by specific reference as the guideline for Fire Protection Systems - Noncompliant Conditions

159.12 APPEALS. Whenever the Code Official disapproves an application or refuses to grant a permit applied for, or when it is claimed that the provisions of this code do not apply or that the true intent and meaning of this code have been misconstrued or wrongly interpreted, the applicant may appeal from the Building or Fire Code Official to the Board of Appeals within thirty (30) days from the date of the decision appealed.

159.13 NEW MATERIALS, PROCESSES OR OCCUPANCIES WHICH REQUIRE PERMITS. The Building Official and Fire Code Official shall act as a committee to determine and specify, after giving affected persons an opportunity to be heard, any new materials, processes or occupancies for which permits are required in addition to those enumerated in either the Building Code or Fire Code. The fire code official shall post such list in a conspicuous place in the building department and distribute copies thereof to interested persons.

159.14 OUTSTANDING PERMITS. If a building permit is outstanding on the effective date of this chapter and the fire code adopted by this chapter, the provisions of this chapter and the fire code adopted by this chapter, shall apply to the work authorized by such permit, except to the extent that the fire code official and building official shall determine that the application of such provisions to such work would be unreasonable. The burden shall be upon the holder of such permit to show the unreasonableness of such provisions.

159.15 RE-INSPECTION FEES. Assessing a fee for second and subsequent fire re-inspections due to Fire Code violations not corrected. Fees for second and subsequent fire re-inspections by the Fire Department will be set by resolution and billed as appropriate by the City Finance Office, to property owners and/or occupants failing to correct safety issues or Fire Code violations identified during an initial fire inspection and a scheduled re-inspection for follow-up.

(Ch. 159 - Ord. 965 – Nov. 17 Supp.)
CHAPTER 160
UNDERGROUND DISTRIBUTION SERVICE

160.01 UNDERGROUND DISTRIBUTION SERVICE REQUIRED. Wherever any building or other structure is located within the following areas, it shall be served by underground service connections, and the distribution system within such territories shall be installed underground:

1. The central business district;
2. Subdivisions approved by the Council after December 11, 1969, where required by this chapter;
3. Undeveloped existing subdivisions (those with 12 or more buildable lots according to zoning definition, and with 10 or more lots physically useable and with not more than three houses constructed on the date set above);
4. Commercial or apartment developments of five acres or more.

160.02 BUILDING PERMITS RESTRICTED. No building permit shall be issued for any building or structure which is required to have underground service or where the subdivision or development in which it is located is required to be served by underground distribution unless said underground electric service and underground distribution where required are installed or are being installed for said structures.

160.03 SUBDIVISIONS. All subdivisions with lots for more than three houses shall, as a condition of approval, provide for the installation of electric services underground, and where the Council determines that the underground electrical distribution is economically feasible, for the installation of underground electrical distribution. Subdivisions of 12 or more lots shall be provided with underground electrical distribution and building services.

160.04 APARTMENT AND COMMERCIAL DEVELOPMENTS. All apartment groups and commercial developments, including shopping centers, office buildings and similar uses, on parcels of five acres or more shall be connected to the electrical distribution system by underground services, and where feasible, as determined by the Council, shall be serviced by an underground distribution system.

160.05 INSTALLATION STANDARDS. All underground electrical distribution shall be installed in accordance with the National Electrical Safety Code for Transmission and Distribution Installations, National Bureau of Standards Publication No. 81, and Supplements No. 1 and No. 2 thereto and with the latest requirements of the Iowa State Commerce Commission for said installations; and underground services in accordance with the National Electrical Code.
160.06 STREET LIGHTING. The City will accept street lights of the size and type adopted as standard for the area involved served by underground electrical distribution and will maintain said lights in harmony with the area underground system.
CHAPTER 161

PROPERTY MAINTENANCE CODE

161.01 TITLE. This chapter may be referred to as the “Johnston Property Maintenance Code”, and is herein referred to as “this Code”.

161.02 PURPOSE. The purpose of this Code is to protect the public health, safety, and welfare, esthetics and property values, by establishing minimum standards for maintenance, appearance, condition, and occupancy, and for essential utilities, facilities, and other physical components and conditions to make residential premises fit for human habitation, and to make nonresidential premises fit for use according to the purpose for which they were developed; by fixing certain responsibilities and duties upon the owners and managers, and distinct and separate responsibilities and duties upon the occupants; by authorizing and establishing procedures for inspection of premises, and enforcement of this Code; establishing penalties for violations; and providing for proper repair, demolition, or vacation of premises which do not comply with this Code. In the event where a covenant has been established by a neighborhood association or other private group in which the covenant is more restrictive than this code the City will not enforce such a covenant.

161.03 DEFINITIONS. Words used in this Code shall have the same meaning as that defined by the Zoning Ordinance, unless otherwise defined by this Code.

1. “Abandoned Building” means any building or portion of a building under construction which has stood with an incomplete exterior shell for more than one year, or any completed building or portion thereof which has stood unoccupied for longer than six (6) months, and which is unsecured or has any Building Code violations.

2. “Board of Appeals” means the Board established and appointed by the City to hear appeals from the Johnston Building Code, referred herein as “the Board”.

3. “Covenant” means a written agreement or promise usually under seal between two or more parties for the performance of some action or to restrict an action by parties of the agreement.

4. “Deterioration” means a state of conditions caused by a lack of maintenance or excessive use, characterized by holes, breaks, rot, crumbling, peeling paint, rusting, or other evidence of physical decay or neglect.

5. “Enforcement Officer” means the Director of Community Development, Building Official, Building Inspector, or other specific contracted designee, as determined by the City as qualified, certified, licensed, or otherwise authorized to perform property maintenance inspections, or to perform any similar duties necessary to enable compliance with the adopted codes and provisions of the City.

6. “Exposed to Public View” means any premises or any part thereof, which may be lawfully viewed by the public or from adjoining premises.

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8. “Extermination” means the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination method.

9. “Farm” means a tract of land having an area devoted to the raising of crops zoned and maintained in accordance with the Zoning Ordinance.

10. “Infestation” means the presence of insects, vermin, or other pests on the premise to the extent that they constitute a health hazard, as deemed by an Enforcement Officer to be in threat of spreading to adjoining premises, or are exposed to public view.

11. “Junk” means any discarded or salvaged material or fixture; obsolete or inoperable machinery or vehicle, or as otherwise defined in Chapters 50 and/or 51.

12. “Nuisance” means physical conditions that are dangerous or detrimental to the health or safety of persons on or near the premises where the conditions exist, or anything that is injurious to the senses or interferes with the comfortable enjoyment of life or property. (See also Chapter 50).

13. “Owner” means any person who alone, jointly, or severally with others, holds legal or equitable title to any premises, with or without accompanying actual possession thereof.

14. “Premises” means a lot, plot, or parcel of land, easement or public way, including any structures thereon.

15. “Public Authority” means any officer or any department or branch of the City, County, or State charged with regulating health, fire, zoning or building regulations, or other activities concerning property in the City.

16. “Refuse” means any material that has lost its value for the original purpose for which it was created or manufactured, or for its redesigned use, whether putrescible or non-putrescible, combustible or non-combustible, which is not securely stored in a building or legal outdoor storage yard for prompt disposal or resale, including but not limited to junk; paper or cardboard; plastic; metals; glass; yard clippings, leaves, woody vegetative trimmings, and other plant wastes which have not been properly composted; vegetable or animal waste resulting from the handling, processing, storage, preparation, serving or consumption of food; crockery; bedding, furniture, or appliances; offal; rubbish; ashes or incinerator residue; construction debris; accumulation of animal feces; dead animals; or wastes from commercial or industrial processes.

17. “Responsible Party” means any person having possession, charge, care, or control of real or personal property, which with or without the knowledge and consent of the owner, including without limitation any one or more of the following: owner, agent, property manager, contract purchaser, mortgagee or vendee in possession, receiver, executor, trustee, lessee or tenant, or any other person, firm or corporation exercising apparent control over a property.

18. “Vehicle” means any device designed to transport a person or property by land, air, or water, and includes without limitation a motor vehicle, automobiles,
trucks, trailers, motorcycles, tractors, buggies, wagons, boats, airplanes, campers or any combination thereof, except bicycles.

19. “Vehicle, Inoperable” means any vehicle that is not licensed for the current year as required by law or which exhibits any of the following characteristics: Cannot legally travel on a public street due to broken, damaged, or missing windshield or other glass customary to the vehicle; fender, door, bumper, hood, wheel, steering wheel, or exhaust system; lacking an engine or other means of power suitable to the design, one or more wheels, or other structural parts which renders the vehicle incapable of both forward and reverse movement in the manner for which it was designed; has become a habitat for rats, mice, snakes, or any other vermin or insects; or constitutes a threat to the public health and safety because of its defective or obsolete condition. (See also Chapter 51).


161.05 MODIFICATIONS, DELETIONS, AND AMENDMENTS. The following modifications, deletions, and amendments are made to the International Property Maintenance Code 2015 edition as published by the International Code Council.

1. **Section 101.1 TITLE.** Insert “the City of Johnston” in place of “[NAME OF JURISDICTION].”

2. **Section 102.1 General.** Is hereby amended by inserting the following paragraph at the end of the section: Partial Invalidity: In the event that any part or provision of this code is held to be illegal or void, this shall not cause any other part or provision of this code to be illegal or void.

3. **Section 102.3 Application of Other Codes.** Is hereby deleted in its entirety and replaced with the following wording in lieu thereof:

   **102.3 Application of Other Codes.** Repairs, additions, or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions as prescribed in any of the Johnston Building Codes as adopted and amended by the City of Johnston at the time of inspection as applicable herein. Nothing in this code shall be construed to cancel, modify, or set aside any provision of the Johnston Code of Ordinances.

4. **Section 102 Applicability.** Is hereby amended by inserting the following subsection thereto:

   **Section 102.11 Permits Required.** No building or structure regulated by this code shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has been obtained from the Building Official in the manner and according to the applicable conditions prescribed by the Johnston Building Codes.

5. **Section 103.1 General.** Is hereby amended by deleting “the department of property maintenance inspection” and inserting “Building Department,” and by
replacing “code official” with “enforcement officer”. Throughout this code wherever these words appear they shall be interpreted as such.

6. **Section 103.5 Fees.** This subsection is deleted in its entirety.

7. **Section 111 Means of Appeal.** Is hereby amended by deleting all subsections under this section in their entirety and the following subparagraph is inserted thereto:

   **111.1. Application for Appeal.** All applications for appeal under this chapter shall be done pursuant to Chapter 50 of the Johnston Code of Ordinances.

8. **Section 112.4 Failure to Comply.** Is hereby deleted in its entirety and replaced with the following wording in lieu thereof:

   **112.4 Failure to Comply.** Any person who shall continue any work after served with a Stop Work order, except such work as that person is directed to preform to remove violation or unsafe condition, shall be liable to a fine not exceeding that as prescribed in Chapter 3 of the Johnston Code of Ordinances.

9. **Section 302.3 Sidewalks and Driveways.** Is hereby amended by adding the following sentence thereto:

   Hazards are further defined by excessive cracking, excessive fracturing, panel separation, displacement in whole or part, elevational settlement or heaving above or below the plane of the sidewalks intended grade, spalling of the surface whereby any of these could cause or promote unsafe or unsteady travel; or is otherwise contrary to the specifications of the most current publication of standards by the Americans with Disabilities Act (ADA).

10. **Section 302.4 Weeds.** Is hereby deleted in its entirety and replaced with the following wording in lieu thereof:

    **302.4 Weeds.** Refer to Chapter 53 of the Johnston Code of Ordinance.

11. **Section 303.2 Enclosures.** Is amended by replacing 48 inches with 72 inches therein.

**Section 303.2 Enclosures.** Is amended by inserting the following sentence to the exception: “This is at the discretion of the Building Official.”

12. **Section 304.14 Insect Screens.** Insert April 15th to October 15th as the applicable dates therein.

13. **Section 307.1 General.** Is hereby amended by deleting the paragraph and exception and inserting the following paragraph thereto:

    **307.1 General.** Handrails and guard rails shall meet the requirement of the International Building or Residential Code enforced at time of inspection. Exception: For buildings constructed prior to adoption of this chapter, handrails/guardrails, which are structurally sound and provide the same height and opening protection as was required by the building code when the structure was originally constructed.”

14. **Section 602.3 Heat Supply.** Insert September 1st and May 30th as applicable dates therein.

15. **Section 602.4 Occupiable Work Spaces.** Insert September 1st and May 30th as applicable dates therein.
16. **Section 604.2 Service.** Is hereby amended by adding the following sentences thereto:

Single family, Duplex, and Townhomes shall have a minimum of 100 amperes.

“Exception: For buildings constructed prior to the adoption of this chapter, services that are below 100 Amps but no less than 60 Amps, and in good, safe and operational order as required by the building code when the structure was originally constructed.”

17. **Section 605.2 Receptacles.** Is amended by inserting the following sentence thereto:

All general purpose outlets requiring GFCI protection as required by the National Electric code enforced at the time of inspection shall be in place.

**161.06 INTERPRETATION.** The provisions of this Code shall be interpreted and applied as minimum requirements, and shall not be deemed a limitation or repeal of any other power granted by the Code of Iowa. Nothing in this Code shall be construed to abrogate the Federal or State Constitutions, nor to grant powers to the City that are otherwise reserved by and for Federal and State Government.

**161.07 ABROGATION AND GREATER RESTRICTIONS.** It is not the intent of this Code to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. Where two or more provisions apply the higher standard shall prevail.

**161.08 MAINTENANCE STANDARDS.**

1. **General.** The exterior of every premises and structure shall be maintained in good repair, to the end that the premises and each structure thereon will be preserved; adjoining properties protected from blighting influences; and safety and fire hazards eliminated.

2. **Maintenance of Premises.** Each and every premises shall be kept free of all nuisances, health, safety, and fire hazards, unsanitary conditions, and infestations. It shall be the duty of the owner or other responsible party to keep the premises free of all said conditions and to promptly remove and abate the same, which include but are not limited to the following declared nuisances:

   A. Weeds or grasses allowed to grow to a height greater than that which is listed in Chapter 53 or any accumulation of dead weeds or grass that are exposed to public view, on any non-farm property which is not within the jurisdiction of the County Weed Commissioner. This provision shall not apply to “Designated Open Spaces” as defined in Chapter 53.

   B. Accumulation of refuse to the prejudice of others.

   C. Any structure or piece of equipment which is in such a dilapidated condition that it is unfit for human habitation or the use for which it was constructed; kept in such an unsanitary condition that it is a menace to the health of people residing therein or in the vicinity thereof; any structure determined as an unsafe structure or piece of equipment by the most-current, and adopted edition of the International Property Maintenance Code, as
D. Any inoperable vehicle that is exposed to public view, unless located on the premises of a lawfully operated junkyard or undergoing repairs in an expeditious manner at a vehicle repair business.

E. Mud, dirt, gravel or other debris or matter, whether organic or inorganic, deposited upon public property in a quantity judged by an enforcement officer to be a threat to public safety or to cause pollution, obstruction, or siltation of drainage systems, or to violate solid waste disposal regulations.

F. Failure to establish a permanent cover of perennial grasses or ornamental ground cover on any property as soon as practical after any construction, and to thereafter maintain same in such condition as to substantially bind the surface of the soil and prevent erosion, whether by sheet or gullying, or by wind or water. Exceptions shall be permitted for densely shaded areas, landscape beds, and gardens, provided that vegetable gardens and agricultural crops shall not be placed in the front yard of a non-farm property, unless it can be demonstrated that no other viable location exists on the premises because of topography, natural vegetation, or similar circumstances out of the resident’s control.

G. Any nuisance as defined in Chapter 50 or described as such by Chapter 657 of the Code of Iowa, 2017.

H. Any alteration, modification, or obstruction which prevents, obstructs or impedes the normal flow of runoff from adjacent lands, or any alteration or modification which substantially concentrates or increases the flow of water onto an adjoining premises to the extent of damaging or saturating such premises.

I. Conditions which are conducive to the harborage or breeding of vermin.

J. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks, cesspools, and drain fields, which have failed or do not function properly, as may be evidenced by overflow, leakage, seepage, or emanation of odors, or which do not comply with the Polk County Department of Health regulations, as applicable. Septic tanks, cisterns, and cesspools that are no longer in use shall be removed, or emptied and filled with clean dirt or sand, or as directed by the Polk County Department of Public Health or governing authority.

K. Vehicles parked on the lawn or other unpaved surface in the yard exposed to public view.

L. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose elements.

M. Dead or diseased trees or other woody vegetation which may lead to the spread of the disease to other specimens or pose a threat to safety or buildings; major parts thereof, such as a limb, which may be dead or broken or otherwise pose a threat to safety or buildings on adjoining premises; any vegetation located on private property which overhangs and is less than 14
feet above the traveled portion of any public street, or less than 8 feet vertically, or which protrudes into any public sidewalk.

N. Loose, overhanging objects or accumulations of ice or snow, which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.

161.09 BUILDING MAINTENANCE. Every building shall be maintained to be weather and water tight, and free from excessively peeling paint or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have any holes or broken glass; loose, cracked, or damaged shingles or siding; or other defects in the exterior finish which admit rain, cold air, dampness, rodents, insects, or vermin. Basements, cellars, and crawl spaces shall be free of standing water and hazards. All wood, including floorboards, subfloors, joists, bridging, roof rafters and sheathing, and all other wood in any interior or exterior floor, wall, roof, or other part of the structure, shall be maintained to be free of cracks affecting structural integrity, termite damage, infestation, or rot. Any and all damaged or deteriorating materials shall be replaced. If infestation exists in any basement, cellar, or crawl space, such infestation shall be remedied in accordance with industry standards.

161.10 REFUSE AND INOPERABLE VEHICLES. Inoperable vehicles shall be stored within a fully enclosed building or other location not exposed to public view, or shall be removed from the premises. All refuse shall be contained in suitable collection containers; kept free from infestation; and shall be removed weekly.

161.11 RESIDING AND RECONSTRUCTION. Materials and practices used in reconstruction and residing shall be of standard quality and appearance commensurate with the character of other properties in the vicinity of the premises.

161.12 VIOLATIONS.

1. Enforcement. The creation or maintenance of a violation of this chapter is prohibited and shall constitute a violation of city ordinance. Each day that a violation is permitted to continue constitutes a separate offense.

A. All inspections, enforcement actions, and hearings on violations, unless expressly stated to the contrary, shall be under the direction and supervision of an Enforcement Officer, who may appoint or designate other public officers or employees to perform duties as may be necessary to enforce this Code, including inspections and holding of hearings. The Enforcement Officers are hereby authorized to abate such violations in accordance with the procedures of this Code and to serve notice to abate same, whether upon the owner or other responsible party for a premise(s) upon which a violation is being maintained, or upon the person or persons causing or maintaining the violation.

B. If a violation is found to exist on an owner-occupied premise(s) and the owner(s) demonstrate that the cost of remedying such violation would exceed the household’s annual disposable income and thereby cause a financial hardship, enforcement shall be held in temporary abeyance until a means of financing or assistance can be identified.

C. The objective of this Code being the abatement of violations, persons violating this Code shall be allowed a reasonable amount of time to voluntarily remedy the violation before action to assess costs or penalties for a
violation is undertaken. Consideration will be given to evidence of a good faith effort to correct the violation; whether an imminent health or safety hazard exists; whether the person has previously been notified of or charged with violations of a similar nature; and other factors.

D. Violations which are not voluntarily remedied may be abated by an administrative abatement process; the municipal infraction process; by court proceedings; or by City abatement and assessment of costs therefore against the responsible party, at the discretion of the City, and as provided by the Iowa Code.

E. It is further provided by this Code that if the City judges that an emergency exists which creates a dangerous and imminent health or safety hazard to persons, property or the general public which requires immediate action, the City may order such action as may be necessary to meet the emergency. Any orders issued pursuant to this paragraph shall be effective immediately or in the time and manner prescribed in the order itself.

F. The enforcement officer may, but shall not be required to, give notice to abate prior to issuance of a civil citation for a repeat offense involving the same property and occurring within one year of a prior violation and notice to abate.

(Ch. 161 - Ord. 961 – Nov. 17 Supp.)
CHAPTER 165

ZONING – GENERAL PROVISIONS AND DEFINITIONS

165.01  TITLE. Chapters 165 through 172 of this Code of Ordinances shall be known and may be cited and referred to as the “Zoning Ordinance” of the City of Johnston, Iowa, and may be referred to herein as “this ordinance,” adopted pursuant to Chapter 414 of the Code of Iowa.

165.02  PURPOSE. The purposes of this ordinance are:
   1. To preserve the availability of agricultural land;
   2. To consider the protection of soil from wind and water erosion;
   3. To encourage efficient urban development patterns;
   4. To lessen congestion in the street;
   5. To secure safety from fire, flood, panic and other dangers;
   6. To promote health and the general welfare;
   7. To provide adequate light and air;
   8. To prevent the overcrowding of land;
   9. To avoid undue concentration of population;
  10. To promote the conservation of energy resources;
  11. To promote reasonable access to solar energy;
  12. To facilitate the adequate provision of transportation, water, sewage, schools, and parks;
  13. To preserve historically significant areas of the community;
  14. To recognize the character of the area of the district and the particular suitability of such area for particular uses;
  15. To conserve the value of buildings;
  16. To encourage the most appropriate use of land throughout the City; and
  17. To fulfill other public requirements.

165.03  INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements. Where this ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this ordinance shall control.

165.04  DEFINITIONS. For the purpose of this ordinance certain terms and words are hereby defined. The words “used or occupied” include the words “intended, designed or arranged to be used or occupied.”
1. “Access” means the place, means or way by which pedestrians or vehicles shall have ingress and egress to a property or parking area.

2. “Accessory dwelling unit” means a separate dwelling unit wholly enclosed within a principal building, or a detached accessory structure and having its own living, sleeping and kitchen facilities. The accessory living quarters is for occupancy by a domestic employee of the principal residential building or members of the family.

3. “Accessory use or structure” means a use or structure on the same lot with the principal use or structure, and serving a purpose customarily incidental and subordinate to the principal use or structure.

4. “Addition” means an extension or increase in floor area or height of a building or structure.

5. “Adult,” as used in this ordinance, refers to a person who has attained the age of eighteen (18) years.

6. “Adult entertainment businesses” means any one of or any combination of the following, which are customarily not open to persons who have not attained the age of eighteen (18) years.

   - Adult Art or Adult Modeling Studio: An establishment or business which provides the services of modeling for the purpose of viewing and/or reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing, or otherwise; provided entrance to such establishment and such services are available only to adults.

   - Adult Artist - Body Painting Studio: An establishment or business which provides the services of applying paint or other substance whether transparent or nontransparent to or on the human body when such body is wholly or partially nude; provided entrance to such establishment and such services are available only to adults.

   - Adult Bath House: An establishment or business which provides the services of baths, including all forms and methods of hydrotherapy; provided entrance to such establishment and such services are available only to adults; and not including such services provided by a medical practitioner or professional physical therapist licensed by the State of Iowa.

   - Adult Book or Video Store: An establishment or business having as a predominant part of its stock for trade: books, films, magazines, photographs, pictures, videos, 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 in this ordinance); and limited in sale of such sexual materials to adults and not including books, periodicals and videos produced for medical practitioners and educational purposes.

   - Adult Motel: A place of lodging wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing “sex act(s)” or “specified anatomical areas.”

   - Adult Motion Picture Arcade: Any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically, or mechanically controlled still picture or motion picture machines, projectors,
or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing “sex act(s)” or “specified anatomical areas.”

- Adult Motion Picture Theater: An establishment with a capacity of two or more persons used predominantly for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to “specified sexual activities” or “specified anatomical areas” (as defined in this ordinance) for observation by patrons therein.

- Adult Night Club: A night club which provides entertainment with dancers who are wholly or partially nude with specified anatomical areas exposed.

- Sexual Encounter Center: A place provided by any business, agency or person where, for any form of consideration or gratuity, persons who are not all members of the same household, may congregate, assemble or associate for the purpose of engaging in “sex act(s)” or exposing “specified anatomical areas.”

7. “Agriculture” means the use of land for agricultural purposes, including those forms of animal husbandry, apiculture, dairying, farming, floriculture, forestry, groves, horticulture, orchards, poultry husbandry, ranching, and viticulture, as specified herein appropriate for operation in an urban and urbanizing area, and also those necessary accessory uses for packing, treating or storing the produce. The operation of the accessory uses shall be subordinate to that of the normal agricultural activities.

8. “Agriculture, intensive” means uses on farms which include feed lots, hog and cattle farms and poultry operations where animals are tightly confined in buildings or outdoor pens, where less than fifty percent (50%) of the feed is grown on site, and which are not compatible with an urban and urbanizing area.

9. “Agriculture research and testing facilities” means the use of land in conjunction with research and marketing of agriculture crop seed. The uses of land and buildings specified herein are intended to be appropriate for operation in an urban and urbanizing area. The uses may include those necessary accessory uses subordinate to the principal use including packing, treating or storing the produce. The operation of the accessory uses may include laboratory, office and greenhouse activities subordinate to the research activity. The construction of all structures shall be subject to site plan review approval as specified in Chapter 171.

10. “Alley” means a private or public way, other than a street, twenty (20) feet or less in right-of-way width affording a secondary means of access to abutting property.

11. “Amendment” means a change in wording, context or substance of this ordinance, or a change in the zoning or district boundaries of the “Official Zoning Map” which is a part of this ordinance when adopted by ordinance passed by the City Council in the manner prescribed by law.

12. “Amusement arcade” means a building or part of building in which five or more pinball machines, video games, or other similar player-operated amusement devices are maintained.

13. “Antenna” means any system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves external to or
attached to the exterior of any building. (See also “satellite dish antenna” and “tower.”)


15. “Apartment building” means any building or portion thereof which is designed, built, rented, leased, let or hired out to be occupied, or which is occupied as the home or residence of three or more families living independently of each other and doing their own cooking in the said building. (See also “dwelling, multiple family.”)

16. “Aquaculture” means land devoted to the hatching, raising, and breeding of fish or other aquatic plants or animals for sale or personal use.

17. “Aquifer” means a geological stratification in which porous and permeable conditions exist and thus are capable of yielding usable amounts of underground water.

18. “Aquifer recharge area” means an area that has soils and geological features that are conducive to allowing significant amounts of surface water to percolate into groundwater aquifers.

19. “Assisted living residential facility” means a building consisting of individual dwelling units where meals and assistance for daily living activities are provided to the residents, who are primarily elderly persons. Such facility must be licensed as a Residential Care Facility, Intermediate Care Facility or Skilled Nursing Facility under Chapter 135C, Code of Iowa.

20. “Automobile sales and storage lot” means an open off-street area where two or more operable motor vehicles are stored or offered or displayed for sale or advertising purposes.

21. “Automobile wrecking” means the dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot, parcel or tract of land, of five (5) or more vehicles which for a period exceeding thirty (30) days have not been capable of operating under their own power, and from which parts have been removed or are to be removed for re-use, salvage or sale, shall constitute prima facie evidence of an automobile wrecking yard. (See “junk yard” also.)

22. “Awning” means any structure made of cloth or other non-rigid material with a metal or other rigid material for a frame and attached to a building and projecting outward from the building. (See “canopy.”)

23. “Automobile repair” means any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, repair, or painting of motor vehicles is conducted or rendered.

24. “Automobile storage” means a building designed and used for the storage of automotive vehicles operated as a business enterprise with a service charge or fee being paid to the owner or operator for the parking or storage of privately owned vehicles.

25. “Balcony” means an unroofed platform, unenclosed except by a railing, which cantilevers from the outer wall of a building above ground level without support other than the building.
26. “Bar” means any establishment devoted primarily to the selling, serving or dispensing and drinking of malt, vinous, or other alcoholic beverage, or any place where any sign is exhibited or displayed indicating that alcoholic beverages are obtainable within or thereon, or where such beverages are consumed on the premises. (Such an establishment may also be referred to as “nightclub,” “cocktail lounge,” “tavern” or “saloon.” Any applicant for a liquor license or license renewal that proposes to have alcohol for consumption on the premises must file with the City Clerk a statement under oath of gross income on forms provided to aid the City in determining said applicant’s status.

27. “Base flood” means the flood having a one percent (1%) chance of being equaled or exceeded in any given year. (See 100-year flood).

28. “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.”)

29. “Basement, walkout” means a basement which has more than one-half (1/2) the horizontal dimension of an exterior wall above the adjacent ground elevation permitting access to the exterior through a doorway with its base at floor level.

30. “Bed and breakfast inn” means an owner-occupied dwelling unit that contains more than one (1) guest room where lodging, with or without meals, is provided for compensation. (See “roomers and boarders.”)

31. “Bedroom” means any room intended for sleeping purposes, provided that no room having less than 100 square feet of floor area shall be considered a bedroom.

32. “Block” means all that property frontage along one public thoroughfare lying between the two nearest intersecting or intercepting streets, railroad rights-of-way, waterways, golf courses, campuses, parks or other similar spaces.

33. “Board” means the Johnston Board of Adjustment.

34. “Boarding house” means an establishment with lodging for five (5) or more unrelated persons where meals are regularly prepared and served for compensation and where food is placed upon the table family style, without service or ordering of individual portions from a menu, but shall not include assisted living residential facilities.

35. “Borrow pit” means any place or premises where dirt, soil, sand, gravel, or other material are removed below the grade of surrounding land for any purpose other than that necessary and incidental to site grading or building construction.

36. “Buffer” means a landscaped area, wall, or other structure intended to separate or partially obstruct the view between two adjacent zoning districts, land uses or properties from one another. (Also see “screening.”)

37. “Buffer zone” means an area reserved for the establishment, construction and continued maintenance of a buffer.

38. “Buildable area” means the area remaining on a lot after the minimum requirement for yards has been met.

39. “Building” means any structure having a roof supported by walls or by columns intended for enclosure, shelter or housing of persons, animals, or chattel. When any portion thereof is entirely separated by walls in which there are no common
walls connecting doors or windows or any similar opening, each portions so separated shall be deemed a separate building.

40. “Building frontage” means that wall or side of a building which is adjacent and most nearly parallel to a street.

41. “Building height of” means the vertical distance from the average ground elevation at the building lines, to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

42. “Building line” means the extreme overall dimensions of a building as determined from its exterior walls or any part of a structural support or component that is nearest to the property line, other than usual uncovered steps and patios.

43. “Building plot or site” means the ground area of one (1) lot, or the ground area of two (2) or more lots which have been combined for the use of one building or permitted group of buildings, together with all open spaces required by this ordinance. (Also see “lot.”)

44. “Building setback line” means the extreme overall dimensions of a lot beyond which buildings and structures are not allowed. Horizontally projecting roof overhangs and chimneys into the setback up to two (2) feet shall be permitted, provided no part of a side of a building for residential occupancy which is not attached to another building shall be closer than five (5) feet to a lot line or within 10 feet of another building. A lot may have multiple building setback lines for primary structures, accessory structures, decks, etc.

45. “Building sign” means a sign which is wholly supported by the building wall, parallel to the plane thereof and which does not extend beyond the surface of said building wall more than twelve (12) inches. This sign may be painted on, incorporated in, or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall.

46. “Bulk or tank stations” means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.

47. “Campground” means an area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, and which is primarily used for recreational purposes and retains an open air or natural character.

48. “Canopy” means a permanent roofed structure, including marquees and awnings, attached to and supported by a building and projecting over private property, or over public property.

49. “Car wash” means an area of land and/or a structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing, or waxing of motor vehicles.

50. “Carport” means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two (2) sides. For the purpose of this ordinance, a carport attached to a principal building is considered as part of the principal building and subject to all yard requirements herein.
51. “Cemetery” means land used or intended to be used for the burial of the dead, including mausoleum, columbarium and crematorium when operated in conjunction with and within the boundary of such cemetery.

52. “Centerline, public thoroughfare” means the line running parallel with the thoroughfare right-of-way boundaries and which is half the distance between the extreme edges of the official right-of-way width.

53. “Certified survey” means a sketch, plan, map or other exhibit bearing a written statement of its accuracy of conformity to specified surveying standards which is signed and sealed by a registered surveyor.

54. “Channel” means a natural or artificial watercourse of perceptible extent, with a definite bed and definite banks to confine and to conduct continuously or periodically flowing water.

55. “Church” or “place of religious worship” means an institution that people regularly attend to participate in or hold religious services, meetings, and other activities. The term “church” does not carry a secular connotation and includes buildings in which the religious services of any denomination are held.

56. “Clear-cutting” means the indiscriminate removal of tree, shrubs, or undergrowth with the intention of preparing real property for development purposes. This definition does not include the selective removal of non-native tree and shrub species when the soil is left relatively undisturbed; removal of dead trees; or normal mowing operations.

57. “Clinic, medical or dental” means a building or buildings in which physicians, dentists, or allied professional assistants are associated for the purpose of carrying on their professions.

58. “Club” means an organization of persons for special purposes or for the promulgation of sports, arts, literature, politics, fitness, or the like but not operated for profit, excluding churches, or other houses of worship.

59. “Cluster development” means a development design technique that concentrates buildings in specific areas on a site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

60. “Cocktail lounge” means any place of business, other than a “night club,” located in and accessory to a hotel, motel, or restaurant, where liquor, beer or wine is sold for consumption on the premises, where music or other entertainment is limited to a piano bar or other one person performance.

61. “Commercial use” means the barter, exchange, sale, service or trade of goods, materials, or services, either tangible or intangible for financial, material or monetary gain.

62. “Complex” means a planned, coordinated development of a tract of land with two or more separate buildings. Such development is planned, designed, and constructed on an integrated and coordinated basis with special attention given to the master planning of on-site vehicular circulation, parking, utility needs, building design and orientation, and open space.

63. “Comprehensive Plan” means the Comprehensive Plan for the City of Johnston which sets forth the City’s long-range plans for land use, transportation,
municipal utilities, City expansion, management and development policies to guide the City’s growth and from which the City’s zoning regulations are based.

64. “Conditional use” - See “special use.”

65. “Communications tower” means a structure that is intended for transmitting or receiving television, radio, or telephone communications. (Also see “antenna.”)

66. “Condominium” means an estate in real property as regulated by Chapter 499B of the Code of Iowa consisting of an undivided interest in common with other purchasers in a portion of a parcel of real property, together with a separate interest in space in a building, such as an apartment. A condominium may include, in addition, a separate interest in other portions of such real property.

67. “Conservation easement” means an easement granting a right or interest in real property that is appropriate to retaining land or water areas predominately in their natural, scenic, open, wooded, or topographic condition, retaining such areas as suitable habitat for fish, plants, or wildlife; or maintaining existing slopes and land use.

68. “Convenience store” means any retail establishment offering for sale food products, household items and other goods commonly found in grocery stores, as well as retail gas sales, and having a gross floor area of more than 1200 square feet but less than 5,000 square feet, and as further regulated within the districts established herein.

69. “Conversion” means any change of one principal use to another principal use.

70. “Court yard” means a space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls or a building.

71. “Cul-de-sac” means a local street, one end of which is closed and consists of a circular turnaround.

72. “Curb level” means the top level of the established curb in front of a lot. Where no curb has been established, the City Engineer may establish such curb level or its equivalent.

73. “Day care center,” “day nursery” or “nursery school” means any private or public agency, institution, establishment, or place which provides supplemental parental care and/or educational work, other than lodging overnight, for seven (7) or more unrelated children of pre-school age, for compensation.

74. “Day care home” means a private residence where care, protection and supervision are provided, for a fee, at least twice a week to less than seven (7) children at one time.

75. “Deck” means an unroofed platform, unenclosed except by a railing, which is attached to the ground and/or another structure.

76. “Density, gross” means the numerical value obtained by dividing the total number of dwelling units in a development by the gross area of the tract of land (in acres) within a development. The value is based upon all the land included within the boundaries of the site excluding area designated as FEMA 100-year floodplain. The gross area of the site includes areas for open space, future parks, and future streets.

77. “Density, net” means the numerical value obtained by dividing the total number of dwelling units in a development by the area of the actual tract of land (in
(acres) upon which the dwelling units are proposed to be located and including common open space and associated recreational facilities within the area.

78. “Development” means any subdivision of land or manmade change to improved or unimproved real estate, including but not limited to the construction of buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

79. “Drive-in facility” means an establishment that, by design of physical facilities or by service or packaging procedures, permits customers to receive a service or obtain a product while remaining in a motor vehicle or to be entertained while remaining in a motor vehicle.

80. “Driveway” means a privately owned roadway giving access from a public street to a building plat or abutting property.

81. “Dump” means a premises used for illegal discarding of trash, garbage, junk or other refuse; but not including legally operating and fills or junk yards.

82. “Dwelling” means any building or portion thereof which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer, or mobile home, shall be designed to be placed on, supported by and attached to a continuous perimeter foundation, which shall be permanent and constructed in accordance with the Johnston Building Code for site built housing. A dwelling unit in a new subdivision may also be used temporarily as a job office or real estate office in support of the construction and sales within that subdivision, and shall cease upon completion of the activity in that subdivision (See also townhouse (row dwelling) and condominium)

- Dwelling, Multiple-Family: a residence designed for or occupied by three (3) or more families, with separate housekeeping and cooking facilities for each. A multiple-family dwelling may take the form of a townhouse, condominium or apartment building.

- Dwelling, Single-Family: a detached residence designed for or occupied by one family only, with the minimum width of twenty (20) feet or more than 65% of the length of the building exclusive of garages.

- Dwelling, Two-Family or Bi-attached: a residence designed for or occupied by two (2) families only, with separate housekeeping and cooking facilities for each, with a minimum width of twenty (20) feet for more than 65% of the length of the building, exclusive of garages.

- Dwelling Unit: a room or group of rooms which are arranged, designed, or used as a dwelling for the occupancy of one (1) family containing sleeping, bathroom, and kitchen facilities.

- Dwelling, Caretaker: A residence on the same site as a business establishment on a farm for use of persons regularly employed on the premises. One caretaker dwelling may be in addition to the principal residence on a farm.

- Dwelling, Second: See “accessory dwelling unit.”

- Dwelling, Factory-Built: See “factory-built.”

83. “Easement” means a granted right by a land owner to a person, government agency, or public utility company to use land owned by another for a specific purpose.
84. "Existing condition" 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.”

85. “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) is completed before the effective date of flood plain management regulations adopted by the community.

86. “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).

87. “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 ordinance, factory-built homes include mobile homes, manufactured homes, and modular homes and also include “recreational” vehicles placed on a site for greater than one hundred eighty (180) consecutive days and not fully licensed for and ready for highway use.

88. “Factory-built home park” means a parcel or contiguous parcels of land divided into two (2) or more factory-built home lots for rent or sale.

89. “Family” means an individual or two or more persons related by blood or marriage or a group of not more than four persons (excluding servants) who need not be related by blood or marriage, living together in a dwelling unit.

90. “Feedlot” means any tract of land or structure, pen, or corral, wherein cattle, horses, sheep, goats, or swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market.

91. “Fill” means to raise the grade of land with the depositing of earth.

92. “Flashing lights” means a sudden or transient outburst of bright light(s); a flood of light briefly appearing and disappearing. A single flash at regular intervals, the duration of light always being less than the duration of darkness.

93. “Flea market” means an occasional or periodic sales activity held within a building, structure, or open area where groups of individual sellers offer goods for sale to the public, not to include private garage sales.

94. “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.

95. “Flood elevation” means the elevation floodwaters reach at a particular site during the occurrence of a specific flood. For instance, the one hundred (100) year flood elevation is the elevation of flood waters related to the occurrence of the one hundred (100) year flood.

96. “Flood Insurance Rate Map (FIRM)” means the official map prepared by the Federal Insurance Administration 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.

97. “Flood insurance study” means a study initiated, funded, and published by the Federal Insurance Administration for the purpose of evaluating in detail the existence and severity of flood hazards; providing the City with the necessary information for adopting a flood plain management program; and establishing actuarial flood insurance rates.

98. “Flood plain” means a land area susceptible to being inundated by water as a result of a flood.

99. “Flood plain basement” means any enclosed area of a building which has its floor or lowest level (subgrade) on all sides. (Also see “lowest floor.”)

100. “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.

101. “Flood profile” means a graph showing longitudinal sections of a designed waterway and the relationship of the water surface elevation of a flood event to any location along the watercourse.

102. “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.

103. “Floodway” means the channel of a river stream or other water course and those portions of the flood plain adjoining the channel, which are required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels or flow velocities cumulatively increase the water surface elevation or the base flood by more than one (1) foot.

104. “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 flood velocities.

105. “Floor” means the lower horizontal surface of a hollow structure, story or room, or the horizontal structure which separates stories in a building.

106. “Floor area” means the total area of all floors of a building or portion thereof measured to the outside surface of exterior walls or the centerline of walls to attached buildings or uses. It does not include garages, porches, balconies and other appurtenances. Space in the basement or cellar and all other space shall be included as floor area if habitable and used for a principal or accessory use permitted in the zone in which the building is located.

107. “Floor area ratio” means the square footage of floor area on all floors divided by the land area within the property lines.

108. “Freeboard” means a safety factor indicating the height above a projected flood occurrence level to which a levy or floodwall is constructed.

109. “Frontage” means the lot line adjoining a public street as measured along the street.
110. “Funeral home” means a building or part thereof used for human funeral services. Such building may contain space and facilities for: a) embalming and the performance of other services used in preparation of the dead for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, urns, and other related funeral supplies; d) the storage of funeral vehicles; and e) facilities for cremation. Where a funeral home is permitted, a funeral chapel shall also be permitted.

111. “Garage” means an accessory building for the private use of the owner or occupant of a principal building situated on the same lot of the principal building for the storage of motor vehicles with no facilities for mechanical service or repair of a commercial nature.

112. “Gas station” or “service station” means any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and including such products as kerosene, fuel oil, gasoline, diesel fuel, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories, and other items customarily associated with the sale of such products. The rendering of accessory services is permitted including automatic car wash for one vehicle at a time, and making of repairs to motor vehicles except those of a major type. Repairs of a major type are defined to be spray painting; body, fender, differential, axle, spring, and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or retreading of tires.

113. “Grade” means the average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five (5) feet of a sidewalk, alley or other public way, the above ground level shall be measured at the elevation of the sidewalk, alley or public way.

114. “Greenhouse” means a building or accessory structure constructed chiefly of glass or other translucent material, which is devoted to the protection or cultivation of flowers or other tender plants.

115. “Group care facility” means a government licensed or approved facility which provides resident services in a dwelling to more than eight (8) individuals not including resident staff. These individuals are developmentally disabled, aged or undergoing rehabilitation; are in need of adult supervision; and are provided services in accordance with their individual needs. Group care facilities do not include nursing homes.

116. “Group home” means a group care facility that is government licensed or approved and provides resident services in a dwelling to eight (8) or less individuals not including resident staff. These individuals are developmentally disabled, aged, or undergoing rehabilitation; are in need of adult supervision; and are provided services in accordance with their individual needs.

117. “Habitable room” means any room meeting the requirements of the City’s adopted Building Code and used for sleeping, living or dining purposes excluding such enclosed spaces as closets, pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfinished attics, foyers, storage spaces, cellars, utility rooms and similar space.
118. “Half-story” means a story with at least two (2) of its opposite sides situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the floor immediately below it.

119. “Hazardous materials” means any substances or materials that, by reason of their toxic, caustic, corrosive, abrasive, or otherwise injurious properties, may be detrimental or deleterious to the health of any person handling or otherwise coming into contact with such material or substance.

120. “Health club” means an establishment providing physical fitness facilities and services to the public for a fee, including but not limited to; game courts, exercise equipment, exercise areas, running tracks, swimming pools, physical fitness maintenance and weight control services and instructors, locker rooms, saunas and associated retail shop intended for members of club only.

121. “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 of 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:
      (1) An approved state program as determined by the Secretary of the Interior or
      (2) Directly by the Secretary of the Interior in states without approved programs.

122. “Home occupation” means a business, profession, occupation or trade conducted for gain or support as an accessory use entirely within a dwelling, or a structure, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building. (See Section 166.28, Home Occupations.)

123. “Homeowners or property owners association” means a formally constituted non-profit association or corporation made up of the property owners and/or residents of a definitive area; who collectively may take permanent responsibility for costs and upkeep of commonly owned or designated community property.

124. “Hospital” means an institution licensed by State law providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.
125. “Hotel or motel” means a building containing six or more guest rooms in which lodging is provided and offered to the public on a temporary basis for compensation, and which is open to transient guests, in contrast to a boarding house or rooming house.

126. “Impervious surface” means a surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted sand, lime rock, or clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

127. “Inoperable vehicle” means any motor vehicle, recreational vehicle, boat, trailer or semi-trailer which lacks a current registration or component part which renders the vehicle unfit for legal use.

128. “Insignias and flags” means insignias, flags and emblems of the United States, the State of Iowa, municipal and other bodies of established government, or flags which display the recognized symbol of a non-profit or non-commercial organization.

129. “Junk” means old, wrecked, inoperable, or discarded automobiles, trucks, tractors and other such vehicles and parts thereof, wagons and other kinds of vehicles and parts thereof, scrap, used building materials, scrap contractor’s equipment, tanks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper excelsior, hair, mattresses, beds or bedding or any other kind of scrap or waste material which is stored, kept, handled or displayed for barter, resale, reuse, salvage, stripping, or trade.

130. “Junk yard” means any area where junk is stored, bought, sold, exchanged, baled or packed, disassembled or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking or structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including the processing of used, discarded or salvaged materials necessary as a part of manufacturing operations.

131. “Kennel” means a facility housing dogs, cats or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business.

132. “Kitchen” means any room or portion of a building used, intended or designed to be used for cooking and other preparation of food.

133. “Landfill” means a disposal site employing an engineering method of disposing of solid wastes in a manner that minimizes environmental hazards by spreading, compacting to the smallest volume, and applying cover material over all exposed waste at the end of each operating day.

134. “Laundry, self-service” means a business that provides home-type washing, drying and/or ironing machines for hire to be used by customers on the premises.

135. “Livestock” means animals kept, or raised for use or pleasure including cattle, horses, sheep, goats, swine, and similar hoofed animals.

136. “Loading space” means any off-street space or berth on the same lot with a building or contiguous to a group of building, for the temporary parking (less than twenty-four hours) for a commercial vehicle while loading or unloading merchandise or materials.
137. “Lot” means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open space as are herein required. Such lot shall have a frontage on a public street unless it is part of a townhouse complex, and may consist of: (a) a single lot of record; (b) a portion of a lot of record; (c) a combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and (d) a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this ordinance.

138. “Lot line” means a line dividing one lot from another lot or from a street or alley. The lot line abutting a street or alley shall be the greater of the existing boundary or that shown in the Comprehensive Plan.

- Front: The line which adjoins a public street.
- Rear: The boundary which is opposite and most distant from the front lot line. In the case of a corner lot, the rear lot line is opposite the front lot line of least dimension. In case of an interior triangular or gore-shaped lot, it shall mean a straight line ten (10) feet in length which is parallel to the front lot line or its cord, and intersects the two (2) other lot lines at points most distant from the front lot line.
- Side: Any lot line not a front lot line or a rear lot line.

139. “Lot measurements” means:

- Area: The gross area, exclusive of streets or other public rights-of-way, within the boundary lines of a lot.
- Depth. The mean horizontal distance between the front and rear lot lines as measured perpendicular to the midpoint of the mean front lot line. In the case of an interior triangular or gore-shaped lot, the depth shall be the horizontal distance between the midpoints at the front lot line and rear lot lines.
- Width. The horizontal distance between the side lot lines as measured perpendicular to the line comprising the lot depth at its point of intersection with the required minimum front yard setback.

140. “Lot of record” means a lot which is part of a subdivision recorded in the Office of the County Recorder or a lot or parcel described by metes and bounds, the description of which has been so recorded. For purposes of this ordinance, an existing contract of purchase at the time of the effective date of this ordinance also constitutes a lot of record.

141. “Lot, substandard” means a lot that has less than the required minimum area or width as required by the zone in which it is located.

142. “Lot types” means:

- Corner Lot: A lot located at the intersection of two (2) or more streets, and having the street right-of-way abut the front lot lines of the lot.
- Double Frontage or Through Lot: A lot, other than a corner lot, with frontage on more than one (1) street or public thoroughfare which does not intersect one another.
- Flag Lot: A lot with access provided to the bulk of the lot by means of a narrow corridor which does not meet the minimum permitted lot width requirements at the minimum setback distance from the public street.
- Interior Lot: A lot, other than a corner lot, having frontage on but one (1) street or public thoroughfare.
- Key Lot: A key lot is a lot so subdivided as to have its side lines coincide with the rear lot lines of adjacent lots on either or both sides of the aforesaid key lots.

143. “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 169.04(2)(E).
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 foot above the 100-year flood level, and
D. The enclosed area is not a “basement” as defined in this ordinance.

In cases where the lowest enclosed area satisfied 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. Exception to the forgoing is a building basement which has been designed in accordance with Section 169.04(2)(C) or 169.04(2)(B) of this ordinance.

144. “Maintenance guarantee” means a guarantee of facilities or work to ensure the correction of any failures of any improvements required pursuant to this ordinance and regulations, or to maintain same.

145. “Manufactured home” – See “factory built home.”

146. “Marina” means a facility for storing, servicing, fueling, berthing, and securing and launching of private pleasure water craft that may include the sale of fuel and incidental supplies for the boat owners, crews, and guests.

147. “Marquee” means a canopy with rigid material of permanent construction projecting from and supported only by the wall of a building.

148. “Massage” means any method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand, other parts of the body, or any instrument, for any form of consideration or gratuity.

149. “Massage establishment” means any establishment having a fixed place of business where massages are administered for any form of consideration or gratuity, including but not limited to, massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include an establishment employing: (i) persons licensed by the State of Iowa under the provisions of Chapters 148, 148A, 148B, 150, 150A, 151, 152, 157, or 158 of the Code of Iowa, when performing massage services as a part of the profession or trade for which licensed; (ii) persons performing massage therapy or massage services under the direction of a person
licensed as described in (i) above; (iii) persons performing massage therapy or massage services upon a person pursuant to the written instruction or order of a licensed physician; (iv) nurses, aides, technicians and attendants at any hospital or health care facility licensed pursuant to Chapter 135B, 135C, or 145A of the Code of Iowa, in the course of their employment and under the supervision of the administrator thereof or of a person licensed as described in (i) above; and (v) an athletic coach or trainer (a) in any accredited public or private secondary school, junior college, college or university, or (b) employed by a professional or semi-professional athletic team or organization, in the course of his/her employment as such coach or trainer. This definition shall not be construed to include a volunteer fire department, a volunteer rescue squad, or a non-profit organization operating a community center; swimming pool, tennis court, or other educational, cultural, recreational, and athletic facilities; and facilities for the welfare of the residents of the area.

150. “Master Plan” means a schematic plan for a unified, coordinated development of a tract of contiguous land which is designed in an integrated and coordinated basis showing streets, water lines and appurtenances, sanitary sewers and appurtenances, storm water management facilities and appurtenances, lot boundaries, building locations, parking and loading areas, access drives, landscaping, existing and proposed grades, buffers, and other information as required to properly depict and communicate the proposed utilization and improvement of the property.

151. “Mini-warehouse” means a building or group of buildings, no more than twenty-five (25) feet in height and not having any dimension greater than 150 feet per building, containing varying sizes of individualized, compartmentalized, and controlled stalls or lockers for the dead storage of customers’ goods or wares, excluding junk, explosive, or flammable materials, and other noxious or dangerous materials. No business activities other than rental of storage units shall be conducted on the premises.

152. “Mobile home” means factory built housing without motive power and built on a chassis for conveyance upon highways or public streets, or waterways; so designed and so constructed as to permit occupancy thereof as a place of human habitation for one or more persons. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided, if such mobile home has not been converted to property tax assessable real estate in accordance with Chapter 135D.26 of the Code of Iowa. Nothing in this ordinance shall be construed as permitting a mobile home in other than an approved mobile home park.

153. “Mobile home park” means any lot or portion of lot upon which one or more mobile homes, modular homes, or trailers occupied for dwelling or sleeping purposes are located regardless of whether or not a charge is made for such accommodations.

154. “Modular home” means a factory-built structure which is manufactured or constructed to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be attached or towed behind a motor vehicle, and which does not have permanently attached to its body or frame any wheels or axles.

155. “Motel” – See “hotel.”
156. “New construction” means those structures or development for which the start of construction or installation commenced on or after the effective date of this ordinance of the Flood Insurance Rate Map.

157. “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 flood plain management regulations adopted by the community.

158. “Night club” means any place of business located within any building or establishment, established and operated for the purpose of supplying entertainment or music and a dance floor and providing meals and/or refreshments prepared for consumption on the premises.

159. “Nonconforming lot” means a lot which lawfully existed prior to the adoption, revision, or amendment of this ordinance, but which fails by reason of such adoption, revision, or amendment to conform to the new district regulation in which it is located.

160. “Nonconforming structures” means a building or structure exists at the effective date of adoption or amendment of this ordinance which is allowed to lawfully exist, but does not comply with the terms of this ordinance by reason of restrictions on area, lot coverage, height, setbacks, architecture, or other characteristics of the structure or its location on the lot.

161. “Nonconforming use” means a lawful use of land that does not comply with the use regulations for its zoning district but which complied with applicable regulations at the time the use was established.

162. “Non-profit institution” means a non-profit establishment maintained and operated by a society, corporation, individual, foundation or public agency for the purpose of providing charitable, social, education or similar services to the public, groups, or individuals. Cooperative non-profit associations, performing a service normally associated with retail sales or trade such as cooperative groceries, granaries, equipment sales, etc., shall not be considered a non-profit institution under this ordinance.

163. “Nursing or convalescent home” means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled, or injured persons; not including mentally insane, mental deficiency or deterioration, inebriate, or contagious cases.

164. “Off-premises” mean the purpose is to advertise, identify and/or direct attention to a profession, business, service, activity, product, campaign or attraction which is not carried on, sold, offered, or manufactured in or upon the premises.

165. “One hundred year flood” means a flood, the magnitude of which has a one percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

166. “Open space” means an area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water
Open space shall not be deemed to include buildings, driveways, parking lots, display areas for retail sales of merchandise, loading areas, outdoor storage areas, or other surfaces designed or intended for vehicular travel.

167. “Outdoor storage” means the keeping, in an unroofed area, of any goods, junk, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.

168. “Parcel” or “tract” means an aliquot part of a section, a lot within an official plat, or a government lot.

169. “Park” means any public or private land reserved for active and passive recreation intended for the private use of the residents or the community. The facilities may include playgrounds, swimming pools, tennis courts, trails, shelters, and other similar uses associated with a designated recreation area. The use includes normal accessory buildings for recreation areas such as playground equipment, all-weather shelters. The term park is not intended to include private or public amusement parks, permanent carnivals, or similar type activities.

170. “Parking area, satellite” means off-street parking spaces located on a separate lot not adjoining the principal use for which they are required or associated with, whether in the same ownership as the property occupied by the principal use or leased from a separate owner.

171. “Parking space” means an area on a lot and/or within a building intended for the use of parking of a personal vehicle. This term is used interchangeably with parking stall.

172. “Patron” means a customer who purchases a commodity or service.

173. “Performance guarantee” means any security accepted by the City in the form of cash, certified check, performance bond, surety bond, or certificate of deposit endorsed to the City.

174. “Place of business” means any vehicle, building, structure, yard, area, lot, premises, or part thereof, or any other place in which or on which one or more persons engage in a gainful occupation.

175. “Planned Unit Development (PUD)” means any development in which the proposed land use, transportation elements, population densities, building arrangement and types are set out in a unified, contiguous plan.

176. “Planning and Zoning Commission” or “Commission” means the Planning and Zoning Commission of the City.

177. “Plant nursery” means any land used to raise trees, shrubs, flowers, and other plants for transplanting.

178. “Porch, unenclosed” means a roofed projection which has no more than fifty percent (50%) of each outside wall area enclosed by a building or siding material other than meshed screens.

179. “Premises” means any lot, plot, parcel or tract of land, building or buildings, structure or structures, used publicly or privately as a place of business, dwelling or meeting place.

180. “Principal building” means a building in which the principal use of the lot on which the building is located is conducted.
181. “Principal use” means the main use of land or structures as distinguished from an accessory use.

182. “Print shop” means a retail establishment that provides duplicating services using photocopy, blueprint, and offset printing equipment, including collating of booklets and reports.

183. “Public thoroughfare” means any right-of-way under the jurisdiction and maintenance of the governmental agencies of the Federal, State or municipal government; which may be used by the public in general, and which may or may not serve as a frontage street to the abutting property. (See “street.”)

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

185. “Recreational vehicle (RV) park” means any parcel of land upon which two or more recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

186. “Recycling center” means a building in which used material is separated and processed prior to shipment to others who will use those materials to manufacture new products.

187. “Recycling collection point” means an incidental use that serves as a neighborhood drop-off point for temporary storage of recoverable resources. No processing of such items would be allowed. This facility would generally be located in a shopping center parking lot or in other public/quasi-public areas, such as in churches and schools.

188. “Research laboratory” means a building or group of buildings in which are located facilities for scientific research, investigation, testing, or experimentation, but not facilities for the manufacture or sale of products, except as incidental to the main purpose of the laboratory.

189. “Residential” or “residence” means any lot, plot, parcel, tract, area, or place of land or any building used exclusively for family dwelling purposes or intended to be used, including accessory uses specified herein.

190. “Restaurant” means an establishment that prepares and serves food and beverages to persons for immediate consumption.

- Dine-in: A restaurant where the patron consumes foods and beverages while seated at tables or counters located on the premises.
- Drive-in: A restaurant that delivers prepared food and/or beverages to patrons in motor vehicles, regardless of whether or not it also serves prepared food and/or beverages to customers who are not in motor vehicles, for consumption on or off the premises.
- Carry-out: A restaurant which prepares food and/or beverages which are packaged and delivered to the patrons or are picked-up at the establishment by the customer; there is no consumption of food or beverages on the premises by patrons.
191. “Resubdivision” means any change in the shape or size of any lot, tract or parcel of land previously platted for the purpose, whether immediate or future, of sale, rent, lease, building development, or other use. Any change in the shape or size of any lot, tract or parcel of land previously approved for building purpose whether immediate or future and regardless whether or not the same is vacant or improved in whole or in part, for sale, rent, lease, building development or other use.

192. “Right-of-way” means a strip of land occupied or intended to be occupied by a street, walkway, drainageway, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer, trail, or other public use.

193. “Road, private” means a right-of-way open to vehicular ingress and egress established as a separate tract for the common use and benefit of certain, adjacent properties. This definition does not apply to individual driveways.

194. “Roomers and boarders” means unrelated individuals who may occupy no more than one (1) guest room within a single-family residence occupied by a family related by blood or marriage. Lodging is available with or without meals for compensation. Guests may stay for periodic or extended stays. A single-family dwelling containing more than one guest room would be considered a rooming or boarding house.

195. “Rooming and boarding house” means a residential structure that provides lodging with more than one (1) guest room, with or without meals, is available for permanent occupancy, and may or may not make provision for cooking in the rooms occupied by paying guests. The definition does not include assisted living residential facilities.

196. “Row dwelling”—See “townhouse.”

197. “Satellite dish antenna” means a device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to transmit and/or receive radio or electromagnetic waves between terrestrially and/or orbitally based uses. This definition is meant to include but not be limited to what are commonly referred to as satellite earth stations, TVROs (television reception only satellite dish antennas), and satellite microwave antennas.

198. “Scenic corridor” means a strip of land on each side of a stream or roadway that is generally visible to the public traveling on such route.

199. “Scenic easement” means an easement, the purpose of which is to limit development in order to preserve a view or scenic area.

200. “School” means a facility that provides a curriculum of elementary and secondary academic instruction, including kindergartens, elementary schools, junior high schools, middle schools and high schools.

201. “School, business training” means school which specializes in business, commercial and industrial training courses and is operated for commercial gain.

202. “Screening” means the method by which a view of one site from another adjacent site is shielded, concealed, or hidden. Screening techniques include fences, walls, hedges, berms, or other features. (Also see “buffer.”)

203. “Seating capacity” means the actual seating capacity of an area based upon the number of seats or one seat per eighteen (18) inches of bench or pew length. For
other areas where seats are not fixed, the seating capacity shall be determined as indicated by the *Uniform Building Code*.

204. “Section” means a section of this ordinance unless some other ordinance, code or statute is indicated.

205. “Servant’s quarters” – See “accessory dwelling unit.”

206. “Setback” means the required minimum horizontal distance permitted between the building line and the related front, side, or rear property line.

207. “Shopping center” means a grouping of retail business and service uses within a single Master Planned Complex of one or more buildings with common parking facilities, access and open space.

208. “Side yard” – See “yard, side.”

209. “Sidewalk café” means an area which is part of and adjacent to and directly in front of a street-level restaurant and located within the sidewalk area of the public right-of-way exclusively for dining, drinking, and pedestrian circulation. The encroachment area of a sidewalk cafe may be separated from the remainder of the sidewalk by railings, fencing, or landscaping planter boxes or a combination thereof as required by the City Council.


211. “Site improvements” includes all improvements to a site plan in addition to proposed buildings, and including but not limited to utilities, storm water management, parking, loading areas, landscaping, buffers, and free standing signs.

212. “Site plan” means a plan, prepared to scale, showing accurately and with complete dimensions, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land. (See Chapter 171 for regulations.)

213. “Slope” means the change in ground elevation between two points.

214. “Special flood hazard area” means the land within a community subject to the “100-year flood.” This land is identified as Zone A on the community’s Flood Insurance Rate Map.

215. “Special use” means a use of land, water or building which is allowable only after the issuance of a special use permit by the Board of Adjustment under conditions specified in this ordinance.

216. “Specified anatomical areas” means: (i) less than completely and opaquely covered human genitals, pubic region, buttocks, and female breasts, below a point, immediately above the top of the areola; and (ii) human male genitals in a discernible turgid state, even if completely and opaquely covered.

217. “Specified sexual activities” means: (i) human genitals in the state of sexual stimulation or arousal; (ii) acts of masturbation, sexual intercourse or sodomy; (iii) fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts.

218. “Stable” means: an accessory building incidental to an existing residential, principal use, in which horses are kept for private use of the occupant of the principal dwelling. The stable may board other horses for compensation, provided that the
maximum number of animals allowed on the property does not exceed the maximum number of animals allowed in this ordinance.

219. “Stable, commercial” means a building and land in which horses are kept for commercial use including boarding, hire, instructions, and sale.

220. “Start of construction” means actual start occurs when footings or structural support columns are installed or constructed. For a “factory-built home,” actual start will occur when it is placed on a site or foundation is constructed. 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 the 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 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 shed 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.

221. “Story” means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the top most story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a walkout basement is more than five (5) feet above grade such basement is considered a story.

222. “Street” means a public or private thoroughfare with a right-of-way not less than twenty (20) feet which is used, or intended to be used, for passage or travel by motor vehicles.

223. “Street line” means a dividing line between a lot, tract or parcel of land and a contiguous street. (Also see “lot line, front.”)

224. “Structural alterations” means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, beyond ordinary repairs and maintenance.

225. “Structural trim” means the molding, battens, capping, nailing strips, lattice, and platforms which are attached to the sign structure.

226. “Structure” means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, antenna, mobile homes, billboards, poster panels, factories, sheds, cabins, factory-built homes, satellite dish antenna, storage tanks, towers, and other similar uses.

227. “Subdivision” means a division of a lot, tract, or parcel of land into two (2) or more lots, building plots or sites, or other subdivisions of land for the purpose, whether immediate or future, of sale, transfer for building development, right-of-way dedication, or other use, provided, however, this definition of a subdivision shall not
include divisions of land into forty (40) acres or more in size parcels of land for agricultural purposes.

228. “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 percent (50%) of the market value of the structure before the damage occurred.

229. “Substantial improvement” means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the “start of construction” of the improvement. This includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions or (2) any alteration will not preclude the structure’s continued designation as a “historic structure.”


231. “Temporary sale” – See “flea market.”

232. “Tent” means any structure or enclosure, the roof or one-half or more of the sides of which are of silk, cotton, canvas, or any light material, either attached to a building or structure, or unattached.

233. “Townhouse” means a dwelling unit which is attached horizontally, and not vertically, to one or more other dwelling units, wherein the land or lot beneath each dwelling is individually owned by the owner of the dwelling. A townhouse subdivision shall have common elements which are specified in or determined under the rules and regulations set forth by recorded covenants. Covenants for a townhouse subdivision shall establish the guidelines for maintenance of common elements and permit free movement through common areas by members of the homeowners association (council of co-owners) to assure access to the structural exterior of each townhouse unit by the individual unit owner.

234. “Trail” means a walkway or bikeway designated with a paved surfaced pathway for travel by means other than by motorized vehicles.


236. “Transfer of development rights” means the conveyance of development rights to another parcel of land by legal instrument authorized by local law.

237. “Transitional use” means a permitted use or structure that by nature or level and scale of activity acts as a transition or buffer between two or more incompatible uses.

238. “Trash” means cuttings from vegetation, refuse, paper, bottles and rags. (Also see “junk.”)

239. “Travel trailer” means a recreational vehicle, with or without motive power; designed as a temporary dwelling, not exceeding eight (8) feet in width and forty (40) feet in length, exclusive of separate towing unit. Such vehicles are customarily and ordinarily used for travel or recreational purposes and not used for permanent habitation.
“Travel trailer park” – See “tourist park.”

“Truck stop” means a service station which is designed principally for the servicing and temporary parking of trucks.

“Truck terminal” means land and buildings used as a relay station for the transfer of a load from one vehicle to another or one party to another. The terminal cannot be used for permanent or long-term storage. The terminal facility may include storage areas for trucks, and buildings or areas for the repair of trucks associated with the terminal.

“Variance” means a modification of the specific regulations of this ordinance granted by resolution of the Board of Adjustment in accordance with the terms of this ordinance for the purpose of assuring that no property, because of special circumstances and hardships applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and zoning district. A grant of relief by a community from the terms of the flood plain management regulations.

“Violation” means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations.

“Warehouse” means a building used primarily for the storage of goods and materials.

“Waterfront” means any site shall be considered as waterfront premises providing any of its lot lines abut on or are contiguous to any body of water, including a creek, canal, lake, river or any other body of water, natural or artificial, not including a swimming pool, whether said lot line is front, rear or side.

“Yard” means an open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the general ground level of the graded lot upward, provided however that fences, walls, signs, poles, post, and other customary yard accessories, ornaments, and furniture more than thirty (30) inches in height may be permitted in any yard subject to requirements limiting obstruction of visibility and other provisions of this ordinance.

- Yard, Front: A yard extending across the full width of the lot and measured between the front lot line and the front building line or any projection thereof, other than the projection of the usual uncovered steps or patios.
- Yard, Rear: A yard extending across the full width of the lot and measured between the rear lot line and the rear building line or any projections other than usual steps or patios.
- Yard, Side: A yard extending from the front yard to the rear yard and measured between the side lot lines and the side building line or any projections other than usual steps or patios.

“Zero lot line” means the location of a building on a lot in such a manner that one or more of the building’s sides rests directly on a lot line.

“Zone” means any one of the classes of districts established by this ordinance which is designated by area upon the Official Zoning Map of the City of Johnston.
250. “Zoning Administrator” means the administrative officer designated or appointed by the City to administer and enforce the regulations contained in this ordinance.

251. “Zoning certificate” means written statement issued by the Zoning Administrator authorizing buildings, structures, or uses consistent with the terms of this ordinance and for the purpose of carrying out and enforcing the provisions of this ordinance.

[The next page is 1021]
CHAPTER 166
ZONING – GENERAL REGULATIONS

166.01 ZONING DISTRICTS. In order to classify, regulate and restrict land use, the location of trades and industries, and the location of buildings designed for specified uses, to regulate and limit the height, bulk, architecture and construction of buildings hereafter erected or altered; to regulate and limit the intensity of the use of lot areas, and to regulate and determine the area of yards, courts, and other open spaces within and surrounding such buildings, the City is hereby divided into the following classes of zoning districts. The use, height, area, and construction regulations are uniform in each class of district, and said districts shall be known as:

RESIDENTIAL, AGRICULTURE AND CONSERVATION ZONING DISTRICTS
A-R Agriculture Reserve District
CD Conservation District
R-E Estates District
R-1 Single Family Residential District
R-1A Modified Single Family Residential District
R-2 One and Two Family Residential District
R-3 Medium Density Multiple Family Residential District
R-4 High Density Multiple Family Residential District
R-5 Mobile Home Park District

COMMERCIAL, COMMERCE PARK AND INDUSTRIAL ZONING DISTRICTS
CO Commercial Office District
C-1 Neighborhood Commercial District
C-2 Community Retail Commercial District
C-3 Highway Service Commercial District
PC Professional Commerce Park District
IC Industrial Commercial Park District
M-1 Light Industrial District
M-2 General Industrial District
PUD  Planned Unit Development District
MUC  Mixed Use Center
GF   Government Facility District

OVERLAY ZONING DISTRICTS

FW   Floodway Overlay Zoning District
FF   Floodway Fringe Overlay Zoning District
FP   General Flood Plain Overlay Zoning District
MHR  Merle Hay Road Corridor Overlay Zoning District
A    Animal Keeping Overlay Zoning District
CL   Cluster Overlay Zoning District

166.02 DISTRICT BOUNDARIES AND OFFICIAL ZONING MAP. The boundaries of the Zoning Districts are indicated upon the Official Zoning Map of the City, which is made a part of this ordinance by reference. The Official Zoning Map and all notations, references and other matters shown thereon shall be as much a part of this ordinance as if the notations, references and other matters set forth by said map were all fully described herein; the original of which is properly attested to and is on file in the Office of the City Clerk. The City Council may from time to time amend the Official Zoning Map or adopt a new Official Zoning Map which shall supersede the prior Map, in the event the Official Zoning Map becomes damaged or destroyed; or for purposes of clarity due to a number of boundary changes, or to correct drafting errors or omissions; provided, however, that any such adoption shall not have the effect of amending the original zoning ordinance or any subsequent amendment thereof.† The district boundaries are either lot lines or the centerlines of streets and alleys, unless otherwise shown. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, alleys, or other public rights-of-way shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following corporate limits shall be construed as following corporate limits.
4. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.
5. Boundaries indicated as following railroad lines shall be construed to be the centerline of the railroad right-of-way.
6. Boundaries indicated as approximately following the centerlines of rivers, streams, creeks or other waterways shall be construed to follow such centerlines.
7. Boundaries not capable of being determined in the previous paragraphs shall be as dimensioned on the Official Zoning Map or if not dimensioned shall be determined by the scale shown on the map.

166.03 COMPLIANCE REQUIRED. Except as hereinafter specified, no building or structure shall be erected, converted, enlarged, reconstructed, or structurally altered, nor shall

† See Editor’s Note at the end of this chapter for ordinances amending the zoning map.
any building or land be used or site improved, or land subdivided, which does not comply with or maintained in accordance with all of the district regulations established by this ordinance for the district in which the building or land is located.

166.04 ENFORCEMENT BY ZONING ADMINISTRATOR. There is hereby created the position of Zoning Administrator who shall be appointed by the Mayor subject to confirmation by the City Council. The Zoning Administrator shall administer and enforce the provisions of this ordinance and shall have the following powers and duties, in connection therewith:

1. The Zoning Administrator shall issue all permits and certificates required by this ordinance.
2. If the Zoning Administrator shall find that any of the provisions of this ordinance are being violated, such official shall notify in writing the person(s) responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The Zoning Administrator shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings, or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of this ordinance.

The City Council may, by resolution approved by a majority vote of the entire Council, delegate the powers and duties of the office of Zoning Administrator to any officer or employee of the City or may combine the powers and duties of this office with any other office or position.

166.05 CONFIRMATION OF ZONING COMPLIANCE. No land shall be occupied or used, and no building hereafter erected or structurally altered shall be occupied or used in whole or in part for any purpose whatsoever, until there is a zoning certificate issued by the Zoning Administrator, stating that the use of the building and the site improvements comply with the provisions of this ordinance.

1. Any change of site improvements not conforming to the current approved site plan for the property or change of use shall not be made on any land, in any building or part thereof, existing or hereafter erected or structurally altered, without a zoning certificate being issued by the Zoning Administrator. No certificate of occupancy shall be issued unless the uses, buildings and site improvements are in conformity with provisions of this ordinance and other applicable codes of the City.
2. No building or premises shall be occupied until a temporary or final certificate of occupancy has been issued. Application for building permits and certificates of occupancy shall be signed by the Building Official after confirming zoning compliance and conformity to the provisions of this ordinance.
3. No certificate of occupancy shall be issued unless the Building Official approves such use and unless the provisions of this ordinance are in compliance. If weather conditions do not allow the completion of certain site improvements and their completion is not essential to the normal operation of the business, a temporary certificate of occupancy may, in the discretion of the Building Official, be issued for a period not to exceed six months as long as a bond or other security acceptable to the Building Official is provided.
4. A temporary certificate of occupancy extension or the issuance of a temporary certificate of occupancy beyond that set forth in subsection 3 above may be issued
166.06 ZONING DISTRICTS DIVIDING PROPERTY. Where one parcel of property has two or more portions covered by different zoning districts, each of these portions shall comply with the regulations of its respective zoning district.

166.07 FUTURE ANNEXATION OF TERRITORY. At the time of annexation into the City, the City Council shall assign the property a zoning district, in the resolution approving an annexation, after considering the Comprehensive Plan and recommendations from the Planning and Zoning Commission, and provided all public notices and public hearings are completed as required for amendments to this ordinance. If the Council fails to assign a zone, then the property shall be designated as A-R Agricultural Reserve District.

166.08 CONTINUING EXISTING USES. The lawful use of land or buildings existing at the effective date of adoption or amendment of this ordinance may be continued even though such use may not conform to the regulations of this ordinance for the district in which it is located. Any use in existence at the adoption hereof which was not a lawful “nonconforming” use under the previous Zoning Ordinance shall not be authorized to continue as a nonconforming use pursuant to this ordinance, or amendments thereto, and shall be considered an unlawful use. A property owner may request a determination of the lawful status of a nonconforming use from the Zoning Administrator. The burden of establishing that any nonconforming use is lawful shall be upon the owner of the nonconforming use and not the City. The Zoning Administrator shall maintain a registry of nonconforming use requests and their disposition. A determination may be appealed to the Board of Adjustment under the provisions of Section 166.16.

166.09 EXISTING TWO-FAMILY DWELLINGS RECLASSIFIED DISTRICT R-1. Existing two-family dwellings which lawfully existed in District R-2 and were amended to District R-1 with the amendment to this ordinance on June 15, 1995, shall be considered a lawful conforming use if they are registered by the Zoning Administrator under the provisions provided in Section 166.08, including the provisions for appeal. Any expansion or alteration of the two-family structures shall adhere to the bulk regulations for District R-1.

166.10 NONCONFORMING USE OF LAND. The lawful use of land upon which no building or structure is erected or constructed which becomes nonconforming under the terms of this ordinance as adopted or amended may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming use of land shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this ordinance.
2. No such nonconforming use of land shall be moved in whole or in part to any other portion of the lot or parcel which was not occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If any such nonconforming use of land ceases for any reason for a period of more than six (6) months, any subsequent use of such land shall conform to the district regulations for the district in which such land is located.

166.11 NONCONFORMING USE OF STRUCTURES. The lawful use of a building or structure, and adjacent land which is part of the plot upon which the building or structure is located, which becomes nonconforming under the terms of this ordinance as adopted or amended, may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Any existing structure in a R District devoted entirely, or in part, to a use not permitted by this ordinance in the district in which it is located, except when required by law, shall not be enlarged, extended, reconstructed, relocated on the site, or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located.

2. Any existing structure, in any district other than a R District, which is devoted to a use made nonconforming by this title prior to the effective date of this ordinance may be structurally altered or enlarged in conformity with the lot area, lot coverage, frontage, width, yard, height, and parking requirements of the district in which it is located. The structural alteration or enlargement shall be limited to buildings on land owned, of record, by the owner of the land devoted to the nonconforming use. This section shall not be interpreted in a manner that would allow the substitution of a nonconforming use that is less restrictive than the one to which the structure was devoted at the time of passage of this ordinance.

3. Any existing residential use in any nonresidential district, which is considered nonconforming by this chapter may be structurally altered or enlarged by issuance of a special use permit by the Board of Adjustment. The modification shall be limited to patios, decks, garages, and minor building additions. The Board may take into consideration the length of time before a transition to conforming use may occur, the enhancement made to habitability, the maintenance and upkeep of the property, and the effect the improvements may have upon development of adjacent properties according to their current zoning. Any accessory structures shall adhere to the provisions of Section 166.23. All other additions shall adhere to the lot area, lot coverage, frontage, width, yard, height, and parking requirements of the district in which it is located.

4. Any nonconforming use may be extended throughout any part of a building which was manifestly arranged or designed for such use at the time of adoption or amendment of this ordinance. No such use shall be extended to occupy any land outside such building.

5. If no structural alterations are made, a non-conforming use of a structure may be changed to another non-conforming use of a similar nature permitted within the same or a more restricted zoning district classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

6. In the event that a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for a period of more than six (6) months, the use of the same shall thereafter conform to the uses permitted in the district in which it is located. Where nonconforming use status applies to a structure and land in
combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

7. Any structure devoted to a use made non-conforming by this ordinance that is destroyed or has substantial damage by any means to an extent of fifty percent (50%) or more of its replacement cost at the time of destruction, exclusive of the foundations, shall not be reconstructed and used as before such event. If the structure is less than 50% destroyed above the foundation, it may be reconstructed and used as prior to the event, provided it is done within six months of such event, and is built of similar materials.

166.12 NONCONFORMING STRUCTURES AND SITE IMPROVEMENTS. Where a building or structure exists at the effective date of adoption or amendment of this ordinance that does not comply with the terms of this ordinance by reason of restrictions on area, lot coverage, height, setbacks, architecture, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such building or structure may be enlarged or altered in a way which increases its nonconformity.

2. Should such structure be destroyed by any means to an extent of 50% or more of its replacement cost at time of its destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance.

3. If the site improvements on an existing building site do not conform to the requirements of this ordinance, the use of the site cannot be expanded or new buildings constructed, unless the site improvements are brought into conformance with this ordinance.

166.13 REQUIRED REPAIRS AND UNAUTHORIZED NONCONFORMITIES.

1. Nothing in this ordinance shall be deemed to prevent the restoring to a safe condition any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

2. Any use of land, use of structure, or structure, in existence at the time of adoption of this ordinance which was an unlawful nonconformity under any previous zoning ordinance or similar regulations shall not be authorized to continue its nonconforming status pursuant to this ordinance or amendments thereto.

166.14 PERMITS PREVIOUSLY ISSUED. Nothing herein contained shall require any change in the overall layout, plans, construction, size, or designated use of any building, or part thereof, for which approvals and required permits have been granted before the enactment of this ordinance, the construction of which in conformance with such plans shall have been started prior to the effective date of this ordinance and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder’s control.

166.15 AMENDMENTS. The City Council may, from time to time, on its own action, upon request by the owner of a parcel of land, or on petition, initiate the process to change the zoning of the property and after public notice and hearings as provided by law, and after recommendation by the Planning and Zoning Commission, change the zoning boundaries and classifications shown on the Official Zoning Map, or subsequently established, and such
amendment shall not become effective except by the favorable vote of a majority of all the members of the City Council.

1. Procedures. Whenever any person desires that any amendment, or change be made in the Official Zoning Map, a petition requesting such change or amendment shall be presented to the Zoning Administrator clearly describing the property and its boundaries as to which the change or amendment is desired, duly signed by the owners of 50% of the area of all real estate included within the boundaries of said tract as described in said petition, and in addition, duly signed by the owners of 50% of the area of all real estate lying outside of said tract but within 250 feet of the boundaries thereof; intervening streets and alleys shall not be included in computing such 250 feet. If the Zoning Administrator finds that the petition meets the requirements noted above, the request shall be referred to the Planning and Zoning Commission. In lieu of a petition, a property owner may submit a written request to the City Council to initiate the rezoning of the owner’s property. Prior to the City Council voting or holding a public hearing upon the petition or request for rezoning, the Planning and Zoning Commission shall provide its comments and recommendations. In case the proposed amendment, supplement, or change is disapproved by the Planning and Zoning Commission, or a protest is presented duly signed by the owners of 20% or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereof, extending the depth of one lot or not to exceed 200 feet therefrom, such amendment shall not become effective except by the favorable vote of at least three-fourths (3/4) of all members of the City Council. Whenever any petition or request for amendment, or change of the zoning districts shall have been denied by the City Council, then no new petition or request for the same zoning change covering the same property or the same property and additional property shall be filed with or considered by the City Council until one year shall have elapsed from the date of filing of the first petition or request.

2. Notice Requirement. Whenever any amendment or change is petitioned to be made in the Official Zoning Map, as to any property covered by this ordinance, the City shall publish notice and notify all property owners within the affected boundaries and all property owners within 250 feet of the boundaries thereof by ordinary mail; intervening streets and alleys shall not be included in computing such 250 feet. The notice of time and place of the public hearing shall be published in accordance with State law prior to any public hearing by the City Council on the proposed zoning change. If the proposed amendment, change or alteration has a similar impact on all of the property within the district, set back regulations, square footage requirement, accessory uses, or other bulk regulations within a district; or adds, deletes, or changes an entire district, notice by publication, only, shall be required. For all rezonings of property by petition or owners request, the owner of the property shall be required to post a sign which is 4’ x 8’ in size with letters of not less than six (6) inches in height stating notice of rezoning and the zoning district designations proposed to be changed and telephone number and address of the Zoning Administrator. A sign shall be placed on each public street right-of-way and shall not be greater than fifty (50) feet from the street right-of-way.

3. Filing Fees. Before any action shall be taken as provided in this section, the owners of the land for which a change in the zoning has been initiated by petition or City Council action in response to a request by the owner of the land shall pay to the City Clerk a filing fee in an amount as established by resolution of the City Council.
166.16 BOARD OF ADJUSTMENT.

1. Board Created. The Board of Adjustment, hereinafter called Board, previously created shall continue to consist of seven (7) members. The terms of office of each member of the Board shall be staggered and for five (5) years. Each member shall be appointed by the Mayor subject to confirmation by the City Council.

2. Meetings. The meetings of the Board shall be held at the call of the Chairperson and at such other times as the Board may determine. Such Chairperson, or in his/her absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. The presence of four (4) members shall be necessary to constitute a quorum.

3. Appeals. Appeals to the Board may be made by any person grieving by any officer, department, board, or commission of the City pertaining to the enforcement of this zoning ordinance. Such appeal shall be made within ten (10) days by filing with the Zoning Administrator a notice of appeal specifying the grounds thereof. The Zoning Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after notice of appeal shall have been filed with him, that by reason of the facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the Zoning Administrator and on due cause shown. The Board shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the petitioner and adjoining property owner, and decide the same within a reasonable time. At the hearing any party may appear in person or by agent or attorney.

4. Fees. The appellant shall pay a fee to the City Clerk to be credited to the General Fund of the City in accordance with the fee schedule as adopted and amended by resolution by the City Council.

5. Powers and Duties. The Board shall have the following powers and duties:

A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning Administrator in enforcement of this ordinance.

B. To grant a variation from the terms of this ordinance when a property owner can show that their property by reason of exceptional narrowness, shallowness, or shape of a specific piece of property, or where by reason of exceptional topographical conditions or other extraordinary or exceptional site conditions; and where the aforementioned conditions are not the result of actions of the property owner, the strict application of the terms of this ordinance actually prohibits the use of their property in a manner reasonably similar to that of other property in the same district, and where the Board is satisfied under the evidence before it that a literal enforcement of the provisions of this ordinance would result in unnecessary hardship; provided, however, that all variations granted under this clause shall be in harmony with
the general purpose and intent of this ordinance. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this ordinance. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this ordinance in said district.

C. To permit the following exceptions to the district regulations set forth in this ordinance, provided all exceptions shall by their design, construction and operation adequately safeguard the health, safety, and welfare of the occupants of adjoining and surrounding property, shall not impair an adequate supply of light and air to adjacent property, shall not increase congestion in the public streets, shall not increase public danger of fire and safety, and shall not diminish or impair established property values in surrounding areas.

(1) To permit erection and use of a building or the use of the premises or vary the height, yard, or area regulations in any location for a public service corporation for public utility purposes, or for purposes of public communication, which the Board determines is reasonably necessary for the public convenience or welfare.

(2) To permit the extension of a zoning district where the boundary line of a district divides a lot in single ownership as shown of record or by existing contract or purchase at the time of the passage of this title, but in no case shall such extension of the district boundary line exceed forty (40) feet in any direction.

D. To issue permits and decide such matters as may be required by other Chapters or Sections of this ordinance.

E. To hear and decide appeals of decisions of the City Administrator as enumerated in Chapter 140, Curb Cuts, Driveway Approaches and Driveways, of the Johnston Municipal Code.

F. If there is no seated Board of Appeals, to convene as and carry out all of the duties and responsibilities of the Johnston Board of Appeals as enumerated in the Johnston Municipal Code.

(Ord. 916 – June 15 Supp.)

6. Decisions of the Board of Adjustment. In exercising the powers enumerated in this Code of Ordinances, the Board may, in conformity with the provisions of law, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision, or determination as it believes proper. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this section; provided, however, the action of the Board shall not become effective until after the resolution of the Board, setting forth the full reason for its decision and vote of each member participating therein, has been filed. Such resolution, immediately following the Board’s decision, shall be filed in the office of the Board, recorded at the Office of the County Recorder, and shall be open to public inspection. Every variation and exception granted or denied by the
Board shall be supported by written testimony and evidence submitted in connection therewith. The City Council may review appeals, variances, exceptions or other requests granted by the Board before their effective date and may remand a decision to grant an appeal, variance, exception or other request to the Board for further study. Upon City Council action to remand a decision by the Board, the effective date of the decision shall be delayed for thirty (30) days from the date of the remand. Any taxpayer; any officer, department, board, or bureau of the City of Johnston; or any person or persons jointly or severally aggrieved by any decision of the Board may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Board, in accordance with the Code of Iowa.

166.17 EXCEPTIONS AND MODIFICATIONS. The regulations specified in this ordinance are subject to the following exceptions, modifications, and interpretations:

1. Use of Existing Lots of Record. In any district where dwellings are permitted, a single family dwelling may be located on any lot or plot of official record as of the original effective date of this ordinance irrespective of its area or width; provided, however:

   A. The sum of the side yard widths of any such lot or plot shall not be less than twenty percent (20%) of the width of the lot, but in no case less than ten percent (10%) of the width of the lot or five (5) feet, whichever is greater, for any one side yard.

   B. The depth of the rear yard of any such lot need not exceed 20% of the depth of the lot, but in no case less than twenty (20) feet.

2. Structures Permitted Above the Height Limit. The building height limitations of this ordinance shall be modified as follows: Chimneys, cooling towers, elevator bulk-heads, fire towers, monuments, stage towers or scenery lofts, water towers, church ornamental towers and spires, radio or television towers or other similar and necessary mechanical appurtenances may be erected to a height greater than that permitted by this ordinance. The Zoning Administrator may approve a modification to the height limitation of no more than ten (10) feet. Modifications exceeding ten feet shall be approved by the Board of Adjustment.

3. Double Frontage Lots. Buildings on double frontage lots extending through from street to street shall provide the required minimum front yard setback on the street side where the City may determine access is permitted, and shall provide the required minimum rear yard setback on the street frontage where the City may determine that no vehicle access shall be permitted. The City may also require an additional buffer adjacent to thoroughfares through the subdivision regulations.

4. Other Exceptions to Yard Requirements. Every part of a required yard shall be open to the sky, unobstructed with any building or structure, except for a permitted accessory building in the designated rear yard, and except for the ordinary projections of sills, belt courses, cornices, chimneys, ornamental features and roof overhang projecting not to exceed twenty-four (24) inches.

5. Mixed-Use Yard Requirements. In instances where buildings are erected containing two (2) or more uses housed vertically, the required side yards for the first floor use shall control.
166.18 CORNER LOTS. Each street frontage shall meet the minimum required front yard setback for the Zoning District in which it is located, and the minimum required lot width shall be increased by a minimum of twenty (20) feet to allow for the additional required front yard setback. For example, if the minimum lot width is sixty (60) feet, the minimum width of a corner lot shall not be less than eighty (80) feet. On corner lots platted and of record prior to July 11, 1974, the same regulations shall apply except that the setback is not required to be greater than 70 percent of the lot width. On any lot, the depth of a front yard abutting a major collector or arterial street shall be measured from the planned right-of-way line based on the City’s Comprehensive Plan and subdivision ordinance to accommodate future street widening.

166.19 FRONT YARD. In any R District, there shall be a minimum front yard setback required as stated in the yard requirements in the bulk regulations for that particular zoning district; provided, however, in no case shall the front yard setback be less than the smallest front yard setback as platted or of an existing dwelling in the same block; whichever is lesser, located within two hundred (200) feet of either side lot line; provided, however, this regulation shall not be interpreted as to require a greater setback than double the minimum required front yard for the zoning district in which it is located; and provided, however, this regulation shall not be interpreted as to permit a setback which is less than the minimum required front yard for the zoning district in which it is located.

166.20 BUILDING LINES ON APPROVED PLATS. Whenever the plat of a land subdivision approved by the City Council and on record in the Offices of the County Recorder and County Auditor shows a minimum setback line along any frontage for the purpose of creating a front yard, or other building setback line, the building line thus shown shall apply along such frontage in place of any other yard line required in this ordinance unless specific yard requirements in this ordinance require a greater setback.

166.21 REQUIRED YARD, OPEN SPACE, PARKING AND LOADING SPACE CANNOT BE REDUCED. No yard or lot existing at the time of passage of this ordinance shall be reduced in dimension or area below the minimum required by this ordinance. No part of a yard or other open space, or off-street parking or loading space provided for any building, structure, or use for the purpose of complying with the provisions of this ordinance shall be included as part of a yard, open space, or off-street parking or loading space required under this ordinance for another building, structure, or use. The right to use any property by way of easement (expressed, implied, or by prescription), permit or other similar type of conveyance or permission that will not ultimately vest title in fee simple ownership, except those for public utility purposes, shall not be included as part of any yard or lot for the purpose of complying with yard setback provisions of this ordinance.

166.22 NUMBER OF PRINCIPAL STRUCTURES ALLOWED PER LOT. Not more than one principal structure on any lot of record or legally described tract of land shall be allowed as of September 25, 1986, or for any lot which has been created by platting or replatting since such date in any district zoned R-1 and R-1A. A special use permit may be issued for a property where an existing second dwelling exists in an R-1(75), R-1(100), or R-1A district that was built or placed on the property prior to January 1, 1999. This provision will permit the creation of a smaller parcel to contain the two existing dwelling units, or the creation of a parcel for each dwelling. Multiple occupancy of a lot by more than one (1) principal building in all other districts shall be permitted, only if approved as a complex, or a part of an approved site plan or planned unit development.
166.23 ACCESSORY BUILDINGS AND GARAGES. Accessory structures, whether attached or detached to the principal structure, shall be erected as provided for in the following paragraphs and according to the maximum structure size and minimum bulk requirements tables.

1. No accessory structure shall be constructed upon a lot until the construction of the main structure has been commenced, and no accessory structure shall be used if the main structure has been unused for a period of six (6) months or longer.

2. The cumulative area of all accessory buildings shall not exceed the more restrictive of those shown in Table 166.23(2) or paragraphs B and C below, unless a special exception is granted as provided for in subsection 3.

   A. For the purpose of calculating the cumulative area of accessory buildings, an integrally attached garage is exempt from this area requirement. Connection by a breezeway, similar structure or short section of common wall is not considered integrally attached.

   B. The cumulative area of all accessory buildings shall not exceed thirty percent (30%) of the rear yard.

   C. The cumulative area of all accessory buildings shall not exceed ten percent (10%) of the lot area.

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<tr>
<th>Table 166.23(2) - Maximum Accessory Building Area (square feet)</th>
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<td>Zoning District Classification</td>
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<td>1 acre to less than 2 acres</td>
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<td>5 acres to less than 10 acres</td>
</tr>
<tr>
<td>10 acres to less than 15 acres</td>
</tr>
<tr>
<td>Greater than 15 acres</td>
</tr>
<tr>
<td>Greater than 30 acres</td>
</tr>
</tbody>
</table>

3. Accessory Structure Building Materials. Accessory buildings must be constructed of common residential exterior materials, provided the color scheme of the accessory structure is consistent with the primary residential structure. In addition, accessory buildings over 720 square feet shall be constructed with the same or comparable building materials as the primary residential dwelling. The provision applicable to buildings over 720 square feet shall not apply to the repair, remodel or replacement of structures permitted prior to the adoption of Ordinance 915 which are not in conformance with this requirement, provided however no such structure can be expanded or enlarged without complying with this provision.

(Ord. 915 – June 15 Supp.)
4. Detached Accessory Building Bulk and Height Regulations. Except as provided for in this subsection, the requirements of Table 166.23(4) shall be observed for accessory buildings.

<table>
<thead>
<tr>
<th>Minimum Setback (if used to house animals or fowl)</th>
<th>A-R</th>
<th>A Overlay District</th>
<th>R-1A</th>
</tr>
</thead>
<tbody>
<tr>
<td>From residence</td>
<td>200</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Front yard setback</td>
<td>200</td>
<td>150</td>
<td>150</td>
</tr>
<tr>
<td>Side yard setback</td>
<td>200</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Rear yard setback</td>
<td>200</td>
<td>50</td>
<td>50</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Minimum Setback</th>
<th>A-R</th>
<th>R-E</th>
<th>R-1</th>
<th>R-1A</th>
<th>R-2</th>
</tr>
</thead>
<tbody>
<tr>
<td>From residence</td>
<td>75</td>
<td>50</td>
<td>30</td>
<td>35</td>
<td>40</td>
</tr>
<tr>
<td>Front yard setback</td>
<td>50</td>
<td>15</td>
<td>7</td>
<td>8</td>
<td>10</td>
</tr>
<tr>
<td>Side yard setback</td>
<td>75</td>
<td>15</td>
<td>7</td>
<td>8</td>
<td>12</td>
</tr>
<tr>
<td>Sum of side yards</td>
<td>30</td>
<td>15</td>
<td>17</td>
<td>25</td>
<td>30</td>
</tr>
<tr>
<td>Rear yard setback</td>
<td>75</td>
<td>15</td>
<td>7</td>
<td>8</td>
<td>12</td>
</tr>
</tbody>
</table>

A. In districts R-1, R-1A, R-E and R-2, no detached accessory structures shall be located between the front lot line and the principal structure’s front building line. In cases of a corner lot, the above provision shall apply to both lot lines abutting a public street.

B. A detached structure of less than 120 square feet in floor area shall have a minimum setback of 3 feet of the property line if located in the side or rear yard.

C. Any accessory building that exceeds 720 square feet in area shall comply with all setback requirements for a principal structure. This provision shall not apply to the repair, remodel or replacement of structures permitted prior to the adoption of Ordinance 915 which are not in conformance with this requirement, provided however no such structure can be expanded or enlarged without complying with this provision.

<table>
<thead>
<tr>
<th>Maximum Height</th>
<th>A-R</th>
<th>R-E</th>
<th>R-1</th>
<th>R-1A</th>
<th>R-2</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>16</td>
<td>15</td>
<td>15</td>
<td>15</td>
<td>16</td>
</tr>
</tbody>
</table>

5. Accessory buildings, except buildings housing animals or fowl, may be erected as part of the principal structure provided they adhere to the setback requirements of the principal structure. This provision would apply to an accessory building connected by a breezeway or similar structure.

6. Special Exceptions. The Board of Adjustment may grant a Special Exception to the provisions of Section 166.23 as detailed below after considering all evidence and factors it deems important in its deliberation.
A. Accessory Structures Without a Main Structure [166.23(1)].

(1) In no circumstance may the Board of Adjustment grant a special exception to construct an accessory structure on a lot prior to commencing construction of the main structure.

(2) The Board of Adjustment may grant a special exception to allow an existing accessory structure to remain on a lot without a main structure in circumstances where the main structure has been destroyed by fire or means of natural disaster (such as a wind storm or tornado).

(3) The Board of Adjustment may grant a special exception to allow an existing accessory structure to remain on a lot without a main structure in circumstances where the owner wishes to demolish a dilapidated main structure. In such an instance, a special exception to allow the accessory structure without a main structure must be granted prior to demolition of the main structure.

(4) Any special exception granted by the Board of Adjustment to allow an accessory structure on a lot without a main structure must include the following conditions for approval:

   a. The accessory structure may only house equipment used to maintain the property on which it resides.

   b. All materials stored on premises must be kept within the accessory structure. No outdoor storage of equipment or materials is allowed. The accessory structure may not be used as rental storage or otherwise for any commercial activity.

   c. The structural and aesthetic integrity of the accessory structure must be maintained at all times. Dilapidated structures must be rehabilitated as a condition for approval.

   d. In choosing to grant a special exception as outlined above, the Board of Adjustment may choose to impose additional restrictions as deemed appropriate by the Board.

B. Maximum Accessory Building Area and Height [166.23(2) and (4)].

(1) The need for additional floor area and/or height of accessory structure is demonstrated to the Board of Adjustment’s satisfaction, and

(2) The additional floor area will not significantly affect the property value of the subject property or adjoining properties. The Board of Adjustment may request the applicant or opponents of the application submit an appraisal completed by a certified appraiser to demonstrate this condition has or has not been met, and

(3) The siting (such as setbacks) of the proposed accessory structure minimizes any adverse effect upon adjacent properties, and

(4) Greater architectural restrictions than contained in subsection 3 may be employed as needed to assure compatibility with neighboring residential structures.
C. Minimum Setback for Structures Larger than 720 Square Feet [166.23(4)(C)].

(1) The Board of Adjustment may grant a special exception to allow an accessory structure larger than 720 Square Feet to utilize the minimum side and rear yard setbacks for an accessory structure, rather than the setbacks for a primary structure, provided:

a. The need for the reduced setbacks for the accessory structure is demonstrated to the Board of Adjustment’s satisfaction, and

b. The reduced setbacks will not significantly affect the property value of the subject property or adjoining properties. The Board of Adjustment may request the applicant or opponents of the application submit an appraisal completed by a certified appraiser to demonstrate this condition has or has not been met, and

c. The siting (such as drainage, access, etc.) of the proposed accessory structure minimizes any adverse effect upon adjacent properties, and

d. Greater architectural restrictions than contained in subsection 3 may be employed as needed to assure compatibility with neighboring residential structures.

D. Building Materials for Structures Larger than 720 Square Feet [166.23(3)].

(1) The Board of Adjustment may grant a special exception to allow an accessory structure to be constructed of materials, other than material that is the same or similar to the primary structure, provided:

a. The use of building materials in compliance with Section 166.23(3) is impractical and such is demonstrated to the Board of Adjustment’s satisfaction, and

b. The proposed building materials will not significantly affect the property value of the subject property or adjoining properties. The Board of Adjustment may request the applicant or opponents of the application submit an appraisal completed by a certified appraiser to demonstrate this condition has or has not been met, and

c. The building materials of the proposed accessory structure minimizes any adverse effect upon adjacent properties, and

E. Prior to the Board’s consideration of any application for a Special Exception as allowed in this section, they shall cause all property owners within 250 feet of the boundaries thereof to be notified by ordinary mail.

F. The Board may not grant a special exception to the limitations set forth in paragraphs 2(B) and (C) of this section. Any variance to those limitations must be in conformance with Section 166.16(5).

(Ord. 915 – June 15 Supp.)
166.24 SATELLITE DISH ACCESSORY STRUCTURE. No satellite dish antenna, antenna or tower greater than 2 feet in diameter or 3 feet in length shall be permitted within the front or side yards. No satellite dish antenna with a dish diameter greater than twelve (12) feet, or height greater than fifteen (15) feet shall be permitted in R-1, R-1A, or R-2 Districts, except by special use permit and shall be screened as practical from adjoining residential uses with a six-foot high fence or landscaping.

166.25 UNDERGROUND ACCESSORY STRUCTURE. An accessory structure which is constructed underground (such as an emergency shelter, garage, wine cellar, etc.) may be beneath the ground surface of any yard area; providing said structure shall comply with the following requirements:

1. No portion of the structure shall be located less than two (2) feet, measured horizontally, from any lot line from which a minimum surface yard area is required.
2. The surface area covering the structure shall be finished in a manner natural to the landscape so as to entirely conceal the underground structure within the required yard area.
3. No portion of the finished surface area above the surrounding ground elevation may exceed a two (2) foot height increase above the normal finished elevation of any required yard area.
4. Ingress-egress to the underground structure shall be located within the allowable surface structure area of the lot and shall not be located in any required yard area.

166.26 DECKS. The following regulations shall apply to all decks constructed in any R-1, R-1A, R-2, R-3 or R-4 zoning district. All decks with a platform height of thirty (30) inches or greater, as measured from the top of platform to general ground level of the graded lot, shall meet the following minimum setbacks:

1. Front Yard Setback: Distance required for principal structure in the applicable zoning district.
2. Side Yard Setback: Distance required for principal structure in the applicable zoning district.

166.27 FENCES, WALLS AND VISION CLEARANCE.

1. On a corner lot, nothing shall be erected, placed, planted, or allowed to grow in such a manner as to impede vision between a height of two and one-half (2½) feet and ten (10) feet above the centerline grades of the area described as follows: that area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines 25 feet from the point of intersection of said right-of-way lines.
2. The requirements of subsection 1 above shall take precedence over any other requirement in this section. In any district where a fence or wall is required by a section or chapter of this ordinance, the Subdivision Ordinance, or other ordinance, to serve as a screening wall, buffer wall or other separating or protective wall, the restrictions in subsection 1 shall take precedence and the restrictions below may yield to the requirements of the specific ordinance.
3. In an M District, fences and walls shall not exceed a height of ten (10) feet.

4. In any district other than the M Districts, the following provisions shall regulate the erection of fences and walls:

   A. Fences and walls are limited to a maximum height of six feet except in the following areas where fences and walls shall not exceed 2½ feet if solid or four feet if 70% transparent, such as a chain link fence:

      (1) Between the front property line and the front building setback line when extended to the full width of the lot (applies to both frontages on a corner lot).

      (2) On a double frontage lot, the additional height restriction would apply to the side from which driveway access is obtained.

             (Ord. 831 – Mar. 11 Supp.)

   B. Posts, rails and other supporting elements shall be on and face the property where the fence is being erected (good side out) unless other arrangements exist in writing between property owners that share a common boundary where the fence is proposed. The Building Official shall make interpretation of conformance.

   C. Barbed or electrified wire shall be prohibited within any R-District, if the property is not being used for agricultural purposes.

5. In the case of retaining walls supporting embankments, the above requirements shall apply only to that part of the wall above the ground surface of the retained embankment.

6. Fence and walls shall not encroach on adjacent property without the written permission of the adjacent property owner.

7. Provision shall be made for gates or openings to provide access maintenance where necessary, such as double frontage lots.

8. Special Exception. An application to the Board of Adjustment may be made for a special exception to the provisions of this section. The application shall include a fee as established by resolution of the Council. The Board shall utilize its adopted rules and procedures and follow all provisions of Section 166.16 in reviewing and making decisions on special exceptions allowed by this section, except that notice may be mailed to only adjacent property owners, unless in the opinion of the Zoning Administrator, a broader dissemination of notice is appropriate.

   A. The Board of Adjustment may consider a special exception to the restrictions of Section 166.27.4(A), (except to the maximum height requirement of six feet), in instances where:

      (1) On a corner lot, where the proposed fence does not affect the continuity of neighboring front yards.

      (2) On a corner lot, where the proposed fence is adjacent to a collector or major arterial street as defined in the Comprehensive Plan.

   B. The Board of Adjustment may consider the following conditions in the review and approval of a special exception, but is not limited to these considerations:
(1) That the proposed use would not adversely affect the health or safety of neighboring properties or adversely affect their use of their property.

(2) Compatible with uses permitted in the zoning district under which it is regulated.

(3) Failure to meet any of the requirements of this section or any condition imposed by the Board of Adjustment in granting a special exception is a violation of this chapter and the property owner may be subject to revocation of the special exception by the Board of Adjustment after notification in writing to the property owner.

(4) Whether the proposal will be compatible with neighboring properties in the surrounding neighborhood.

(5) Whether the size, configuration or other unusual characteristics of the lot requires an exception from the zoning requirements in order to provide a reasonable fenced area without creating significant harm to adjacent properties or the neighborhood.

(Ord. 831 – Mar. 11 Supp.)

166.28 HOME OCCUPATIONS. Subject to the limitations set forth by this section, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit. Any question of whether a particular use is permitted as a home occupation, as provided herein, shall be determined by the Zoning Administrator pursuant to the provisions of this section. The regulations of this section are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities can be carried on in the home. This section recognizes that, when properly limited and regulated, such activities can take place in a residential structure without changing the character of either the neighborhood or the structure.

1. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:

   A. Not more than one person who is not a resident on the premises shall be employed.

   B. No more than 25% or 400 square feet of the dwelling unit, whichever is less, shall be devoted to the home occupation.

   C. No alteration of the principal residential building shall be made which changes the character and appearance thereof as a dwelling.

   D. No stock of goods shall be displayed or sold on the premises in excess of 30 cubic feet in volume.

   E. The home occupation shall be conducted entirely within the principal dwelling unit or no more than 400 square feet of floor area in a permitted building accessory thereto, and in no event shall such use be apparent to adjoining residences and from any public street.

   F. There shall be no outdoor storage of equipment or materials used in the home occupation.
G. Not more than one vehicle used in commerce in connection with any home occupation shall be parked on the property.

H. Off-street parking space shall be adequate to accommodate the parking demand generated by the home occupation.

I. No mechanical, electrical, or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare, or other nuisance outside the residential or accessory structure shall be used.

J. No home occupation shall be permitted which is noxious, offensive, or hazardous by reason of vehicular traffic generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation, or other objectionable emissions.

K. No sign, other than one unlighted sign not over one square foot in area attached flat against the dwelling and displaying only the occupant’s name and occupation, shall advertise the presence or conduct of the home occupation.

L. There shall be no off-premise signs, radio, television, newspaper, handbill or similar types of advertising linking the premises with the home occupation.

2. Home Occupations Permitted. Customary home occupations include the following list of occupations; provided, however, each such home occupation shall be subject to the use limitations set forth in this section.

   A. Providing instruction to not more than four (4) students at a time.

   B. Office facilities for accountants, architects, brokers, engineers, lawyers, insurance agents, and real estate agents.

   C. Office facilities for ministers, priests, and rabbis.

   D. Office facilities for salesmen, sales representatives, and manufacturer’s representatives when no retail or wholesale sales are made or transacted on the premises.

   E. Studio of an artist, photographer, craftsman, writer, or composer.

   F. Any use which is found by the Zoning Administrator to be a use similar to one of the above named uses and which, in the opinion of the Zoning Administrator, conforms to the intent of this section.

166.29 PROHIBITED LIGHTS. Flashing or pulsing lights, moving lights, strobe lights or rotating beacons shall be prohibited out-of-doors or visible from the out-of-doors in all zoning districts except when otherwise legally displayed as emergency lights or warning lights or authorized by the City Council for a temporary period for a special occasion. Any lighting used for illumination out-of-doors shall be arranged as to divert the light away from adjoining residences in any residential district and away from public streets.

166.30 TEMPORARY USES. No temporary use shall be established unless a zoning certificate evidencing compliance of such use with the provisions of this ordinance has been issued. A temporary use may consist of construction-related trailers, mobile structures used for construction offices and storage, and batch plants. Temporary use may also include temporary offices to replace permanent facilities being reconstructed. They shall be located
on the construction site and shall conform to the zoning setback requirements for the district in which the site is located. The maximum duration for a temporary use is one year from the date the zoning certificate is issued. The temporary use shall be removed from the site after one year or upon expiration of the building or other construction permit, whichever occurs first, and shall be removed prior to the issuance of a certificate of occupancy.

166.31 POWER BACKUP GENERATORS. A facility may be allowed consisting of fuel tanks and generators for the purpose of providing electrical power generation during interruptions of electrical service. The facility shall meet the requirements below and any other City Code prior to obtaining any permit required.

1. Except in any M District, the fuel tanks and generators shall be located a minimum of 200 feet from an R District. An exception can be made if the generator is outfitted with a critical silence muffler or it can be demonstrated that noise levels at the R District boundary will not exceed 55 db.

2. The generators and tanks shall be completely screened from view from any adjoining property by a solid wall.

166.32 OPEN SPACE AND LANDSCAPING REQUIREMENTS. The requirements set forth in this section for open space and landscaping shall apply to any development or redevelopment within the City, by zoning district as listed within this section.

1. Statement of Intent. It is recognized that the extensive use and excessive congestion of land is detrimental to the general health and welfare of the community. Therefore, the intent of this section shall be to require open space which is necessary to provide adequate light and air and the desired qualities and beauty that landscaping provides the City.

2. Open Space Required. The following open space requirements shall be adhered to for any development within the City:

A. Cantilevers and uncovered decks may project from the building wall into the required open space, provided an uncovered deck shall not cover more than 50% of the open space within the front yard. Open stairways may project from the building wall into the required open space not more than seven and one-half (7-1/2) feet. Stairways when located in the required open space shall be cantilevered or supported by the necessary columns only; support by a wall other than the exterior building wall is strictly prohibited.

B. On each lot there shall be provided an open space equal to at least the following percentage of the total lot area for each zoning district listed. Said open space shall be unencumbered with any structure, or off-street parking or roadways, ingress-egress access drives and shall be landscaped and well maintained with grass, trees and shrubbery, except for areas used for pedestrian walks, courtyards or plazas. When the entire lot is not being developed, the open space requirement shall be based upon maintaining the specified percentage of open space within the boundaries of the improved portion of the lot.
3. Landscaping Required. Any development in the City shall provide the following minimum number and size of landscape planting 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 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 and not considered a nuisance or undesirable species, such as trees with thorns, cottonwood or cotton-bearing poplars, elm trees prone to Dutch Elm Disease, box elder, 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 or one tree of the following size per 1,500 square feet of open space, whichever is greater:

   40 Percent................................2 - 2½ inches Caliper Diameter
   Balance......................................8 - 10 feet in height

   Evergreen trees shall not be less than six (6) 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.

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.
166.33 OFF-STREET PARKING AND LOADING. The requirements and regulations of this section apply to any development or redevelopment within the City.

1. Statement of Intent. It is the intent of this section to prevent traffic congestion and to provide for proper traffic safety by preserving the public thoroughfares for the unimpaired movement of pedestrian and vehicular traffic. Therefore, it shall be recognized that the requirements of this section are minimum and that in certain uses of land, these requirements may be inadequate. Where review of the site plans and intended land use indicate through the application of proven standards or experienced statistics that the requirements herein are inadequate for the specific land use adaptation, a greater requirement for off-street parking space is justified and may be required to preserve the intent of this section.

2. Off-Street Loading Space Requirements. In any Zoning District in connection with every building or part thereof hereafter erected, having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, office buildings, or other similar commercial or industrial uses which require the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building, at least one (1) off-street loading space, and for multiple tenant commercial/retail shopping centers, one (1) additional such loading space for each twenty thousand (20,000) square feet or major fraction thereof of gross floor area so used in excess of ten thousand (10,000) square feet, provided the total number of loading spaces is not required to be more than the total number of occupying tenants.

A. Each loading space shall not be less than ten (10) feet in width and twenty (20) feet in length for loading spaces not requiring loading dock access, and twelve (12) feet in width and fifty (50) feet in length for loading dock access for trucks. All loading areas shall be designed in a manner acceptable to the City and provide adequate space for loading access.

B. Such loading area may occupy part of a required yard or court space, except required open space under Section 166.32 of this chapter, and provided the loading area and access roadways meet all setbacks required of off-street parking areas as set forth in this section.

C. Loading yards and loading docks shall be located and buffered from general public view, public streets, public buildings, recreation facilities, parks, schools, places of assembly for worship, residential zoning districts and uses, CO and PC zoning districts, and screened from all other adjoining properties where it is determined said loading areas are considered offensive to more restrictive uses.

D. All loading yards and accesses to loading yards and loading docks shall be paved with asphalitic or portland cement concrete pavement in accordance with surfacing requirements set forth in this section.

3. Off-Street Parking Requirements.

A. Requirements. In all zoning districts in connection with every industrial, commercial, business, trade, institutional, recreational, or dwelling use, and similar uses, space for parking and storage of vehicles shall be provided in accordance with the following schedule.
(1) Automobile sales and service garages - one parking space for each 300 square feet of gross floor area. The off-street parking shall be in addition to automobile display areas.

(2) Banks, business and professional offices - one parking space for each 200 square feet of gross floor area up to 5,000 square feet and one space for each 275 gross square feet of floor area thereafter, or one parking space for each person regularly employed on the premises during the maximum working shift or the maximum number of employees on the premises during a change of shifts, whichever is greater.

(3) Bowling alley - five spaces for each alley and one space for each four spectator seats.

(4) Churches - one parking space for each three seats or one parking space for each 54 inches of pew space, and one parking space for each classroom.

(5) Dance halls, assembly halls - one parking space for each 100 square feet of floor area devoted to patron use, or one parking space for each four seats of maximum seating capacity, whichever is greater.

(6) Day nursery schools and child care centers (including day nursery for elderly) - five parking spaces, or one parking space for each five maximum client capacity, whichever is greater, plus additional spaces necessary to accommodate the parking of vans and buses used for client transport by the school or center.

(7) Dwellings, residential:
   a. One- and two-family dwellings – two parking spaces for each dwelling unit, exclusive of private garages.
   b. Multi-family dwellings – two parking spaces for each dwelling unit. One garage parking space may be counted as a parking space in fulfillment of the parking requirements, provided there is no less than one open parking space for each dwelling unit and one not reserved parking space for each ten dwelling units.

(8) Funeral homes, mortuaries – 15 parking spaces or one parking space for each four seats in the principal auditorium or four parking spaces for each service or viewing room, whichever is greater. In addition, one parking space for each two persons regularly employed on the premises shall be provided.

(9) Furniture, appliance, and other retail stores displaying large and bulky merchandise – five parking spaces or one parking space for each 400 square feet of patron floor area, whichever is greater.

(10) Gas stations or service stations – three parking spaces, or one parking space for each 175 gross square feet of floor area, whichever is greater; in addition to vehicle stopping space at fuel pumps.
Golf course – six parking spaces for each golf hole, one parking space for each employee on the premises during the maximum shift, and fifty percent (50%) of the parking spaces required for any accessory use (e.g., bars, restaurants) associated with the golf course.

Golf driving range – 1½ parking spaces for each driving tee.

Health and athletic fitness centers or clubs – 10 parking spaces, plus one parking space for each 200 gross square feet of floor area and swimming pool area in excess of 1,000 square feet of floor area, plus four spaces for each tennis court, and fifty percent (50%) of the parking spaces required for any accessory use (e.g., restaurant, retail store) associated with the center or club.

Hospitals, sanitariums and nursing homes – one parking space for each four patient beds and one parking space for each person regularly employed on the premises during the maximum working shift or change of shifts, whichever is greater, and one space for each doctor.

Hotels, motels, boarding houses – one parking space for each guest room or suite of rooms offered for transient guest accommodations, one parking space for each two persons regularly employed on the premises during the maximum working shift, and one parking space per 100 gross square feet of associated floor area used for accessory uses such as restaurant, tavern, night club, meeting rooms and convention facilities.

Industrial or manufacturing plants – 1½ parking spaces for each two employees on the maximum working shift; or two parking spaces for each 1,000 square feet of gross floor area up to 10,000 gross square feet devoted to manufacturing use and then two parking spaces for each 1,500 square feet devoted to manufacturing use thereafter; whichever is greater.

Restaurants, taverns, night clubs or similar places dispensing food, drink or refreshments – one parking space for each 50 square feet of floor area devoted to patron use within the establishment. In addition, one parking space must be provided for each person regularly employed or intended to be regularly employed on the premises during the maximum working shift.

a. For stores over 2,000 square feet floor area – one parking space for each and every 175 square feet of gross floor area.

b. For stores under 2,000 square feet floor area – one parking space for each and every 500 square feet of gross floor area, and one space for each person regularly employed on the premises; provided, however, there shall not be less than five parking spaces.
(19) Schools and other places of education or instruction:

a. Elementary, junior high or other places for under driving age students – one parking space for each and every person regularly employed on the premises; in addition, one parking space for each ten student desks or classroom seating capacity.

b. High schools – one parking space for each and every person regularly employed on the premises. In addition, one parking space for each three student desks or classroom seating facilities.

c. Colleges, trade schools and other places of learning – one parking space for each and every person regularly employed on the premises; in addition, one parking space for each three student desks or classroom seating facilities.

d. Accessory sports arenas, stadiums, and auditoriums, etc. – whichever is greater of the parking space required by a, b, and c above or parking space requirements for sports arenas, stadiums, auditoriums, etc. on site, shall be provided.

(20) Shopping centers – multiple tenant shopping centers – one parking space for each 175 square feet of gross floor area up to 10,000 square feet, and one parking space for each 200 square feet of gross floor area thereafter. If a multi-tenant shopping center is occupied by a tenant or tenants which collectively is determined to create a twenty percent (20%) or greater demand for parking by the shopping center in accordance with the schedule within this section, the required parking for said shopping center shall be calculated based upon the collective parking space requirements of all tenants based upon the schedule herein.

(21) Wholesale establishments or warehouses – one space for each person regularly employed on the premises, and one space for each 2,000 square feet of floor area.

B. Change of Use. Any lot with a change of use upon its premise shall provide an adequate number of parking spaces required by the new use in accordance with the standards set forth within this chapter. For buildings which are designed to accommodate a use permitted in the zoning district which can create a greater demand for parking than the initial use of the property, additional open space can be required by the City Council to accommodate additional parking, if a change of use occurs.

C. Mixed Uses. For multiple use buildings and/or sites which are not multi-tenant retail shopping centers, space for parking and storage of vehicles shall be provided in accordance with parking requirements of each use.

D. Uses Not Listed Herein. In case the parking requirement of a building or use is not specifically mentioned herein, the parking space requirements for a use which is listed above and to which said use is similar, shall apply as determined by the Zoning Administrator. If no similar use is listed, the Zoning Administrator shall determine the parking space
requirements based upon other available references or qualified sources of information to adequately determine parking demand.

E. Parking Area Dimensions. A parking stall reserved for the parking of automobiles shall have a dimension of not less than nine feet in stall width and 18 feet in depth for 90° parking without front-end overhang over an open space area, plus such additional parking bay stall aisle width based on proven traffic engineering standards acceptable to the City and conforming to the minimum standards for parking lot dimensions set forth herein necessary to afford adequate ingress and egress. Where there is front end overhang over an open space area, the minimum stall depth for a parking space may be reduced two feet. The following dimensions are minimum standards for the design of a parking lot for parking stalls without an overhang over an open space area:

<table>
<thead>
<tr>
<th>Angle of Parking Stall</th>
<th>Width</th>
<th>Stall Depth</th>
<th>Parking Bay Aisle Minimum Widths (one-way traffic)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Parallel</td>
<td>23 ft</td>
<td>10 ft</td>
<td>12 ft</td>
</tr>
<tr>
<td>30 degrees</td>
<td>9 ft</td>
<td>18 ft</td>
<td>12 ft</td>
</tr>
<tr>
<td>45 degrees</td>
<td>9 ft</td>
<td>20 ft</td>
<td>13 ft</td>
</tr>
<tr>
<td>60 degrees</td>
<td>9 ft</td>
<td>21 ft</td>
<td>18 ft</td>
</tr>
<tr>
<td>90 degrees</td>
<td>9 ft</td>
<td>18 ft</td>
<td>24 ft</td>
</tr>
</tbody>
</table>

All two-way traffic parking bay aisles and access roadway shall have a minimum 24-foot width.

Note: The stall depth is the distance measured perpendicular to the parking bay aisle from the edge of the aisle to the most distant point of the parking stall, and stall width is the perpendicular distance between the parking stall borders.

F. Performance Standards. Every parcel of land hereafter used as a public or private off-street parking area shall be developed and maintained in accordance with the following requirements:

(1) Setback Requirements. No part of any parking space shall be closer than five feet to any established public street right-of-way or public street easement, except as hereinafter required for the following uses and zoned districts, and as shall be necessary to provide adequate landscaped screening as required by subparagraph 4 below. Parking on driveways for single family and townhouse residences shall not encroach into the public street right-of-way. Greater setbacks for off-street parking lots from public street right-of-ways may be required by the City for parking lots fronting planned major arterial streets and collector streets which do not meet the minimum requirements for right-of-way width as set forth in the Comprehensive Plan and Chapter 180 of this Code of Ordinances. No part of any parking space shall be closer than five feet to an established alley line or to an adjoining lot line, unless the parking space adjoining a lot line is part of a common parking lot of joint
usage between adjoining lots or within the driveway of a single family residence. Parking on driveways in all zoned districts shall not be permitted within the public street right-of-way or across public sidewalks. Driveways and associated off-street parking areas for single family residences shall not be located closer than one foot from an adjoining residential lot line, unless such driveway is of joint usage by adjoining residential lot owners.

(2) 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 in accordance with the specifications 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-inch 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. The minimum thickness of pavement of the parking area shall be as follows:

a. Portland Cement Concrete shall have a minimum thickness of five inches and the subgrade shall have minimum subgrade modules (k) of 150. Additional thickness of Portland Cement Concrete may be utilized to create equivalent subgrade modules if the existing subgrade modules are less than 150.

b. Asphallic Cement Concrete shall have a minimum thickness of 5½ inches and the subgrade shall have a minimum CBR of five. Additional thickness of Asphallic Cement Concrete may be utilized to create an equivalent CBR if the existing CBR is less than five. Pavement shall be designed in accordance with the Asphalt Institute’s Thickness Design Manual (MS-1).

Material utilized in the subgrade shall be well drained and not susceptible to frost boils. The part of the parking utilized for driveways, access roadways, and frontage roads shall be specifically designed to accommodate the type and load bearing capacity of traffic.
anticipated. Driveways for individual single family detached or attached townhouse style residences on private property shall be asphaltic concrete or portland cement concrete with minimum thickness of five (5) inches with a sufficiently compacted and well-drained subgrade base and not greater than 20 feet in width between the public street roadway and a point of setback five feet from the right-of-way. Paved driveways and any associated off-street parking areas within the front yard of a single-family detached residence shall not occupy greater than fifty percent (50%) of the area between the building setback line and public right-of-way, shall not provide greater than one parking space in addition to that provided in the traveled portion of the driveway, and so graded and drained to dispose of surface water to the street or public designated storm water drainage facilities.

3) Lighting. Any lighting used to illuminate any off-street parking or loading area shall be so arranged as to divert the light away from adjoining residential uses or premises, and away from the traveled roadway of public streets.

4) Landscaping, Screening and Open Space Requirements. It is desired that all parking areas be aesthetically improved to reduce obtrusive characteristics which are inherent to their use. Therefore, wherever practical and except for single family detached and townhouse style residential parking in driveways, parking areas shall be effectively screened from general public view and contain shade trees within areas where multiple aisles of parking exist. The adequacy of the landscaping shall be demonstrated to the satisfaction of the City Council prior to the approval of the Site Plan Review.

4) 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 townhouse dwellings which shall be permitted backward movement from a driveway. The backing or backward movement of vehicles from a driveway, off-street parking or loading area onto a major thoroughfare, including all thoroughfares designated as arterial streets or major collector streets on the Major Streets Plan shall be strictly 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 shall have a width between open space areas not greater than 25 feet for single family detached and townhouse residential dwellings, and 37 feet for multi-family, nonresidential uses and multiple building complexes. The number of ingress/egress access points to public streets from off-street parking areas shall be 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 off-street 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 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, limiting any impairment of vehicular movement on public streets, or backing of vehicles from an off-street parking or loading area to a public street.

(6) 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:

<table>
<thead>
<tr>
<th>Total Parking In Lot</th>
<th>Required Minimum Number of Handicap Spaces</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 to 25</td>
<td>1</td>
</tr>
<tr>
<td>26 to 50</td>
<td>2</td>
</tr>
<tr>
<td>51 to 75</td>
<td>3</td>
</tr>
<tr>
<td>76 to 100</td>
<td>4</td>
</tr>
<tr>
<td>101 to 150</td>
<td>5</td>
</tr>
<tr>
<td>151 to 200</td>
<td>6</td>
</tr>
<tr>
<td>201 to 300</td>
<td>7</td>
</tr>
<tr>
<td>301 to 400</td>
<td>8</td>
</tr>
<tr>
<td>401 to 500</td>
<td>9</td>
</tr>
<tr>
<td>501 to 1000</td>
<td>2 percent of total</td>
</tr>
<tr>
<td>1001 and over</td>
<td>20 plus 1 for each 100 over 1000</td>
</tr>
</tbody>
</table>

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".

(7) Satellite Parking Areas. Satellite parking areas shall not be permitted except by special use permit.

4. 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 section, provided a report on such change is received from the Planning and Zoning Commission, 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. The City Council may waive the construction of all the parking spaces required in subsection 3 of this section, provided that the property owner can demonstrate that all the parking can be provided, if it determines that such parking should need to be constructed in the future. This can be accomplished through the Site Plan Review procedures in Chapter 171.
166.34 BUFFER REQUIREMENTS. The requirements set forth in this section shall apply to any development or redevelopment of property within the City.

1. Statement of Intent. The use of physical barriers or buffers is considered a necessary requirement to allow for the transition from one zoning district or land use to another contrasting zoning district or land use in recognition of neighbor’s rights, to promote the coordination of neighborhood efforts and compatibility of neighborhood elements, and to protect the value of buildings and property.

A. Berm. A berm is a mound of topsoil a minimum of 3-feet in height above the surrounding grade, designed so as not to impede the surface flow of water. Height in buffer areas is measured from the elevation of the shared property line. Berms may not have a slope greater than 3:1 and must have a crown width of at least 3 feet. A berm is intended to screen, and to give added height to other buffer elements.

B. Buffer Area. A buffer area is a designated area together with any plant material, berms, fences or walls required. Both the amount of land and the type and amount of materials specified are designated to lessen impacts between adjoining land uses. The landscape buffer width shall be no less than the normally required setback.

C. Buffer Intensity. Buffers are intended for various purposes: to soften rather than block views, to obscure or block views where privacy is desired, and to mitigate both views and noise. Refer to Table 1 in subsection 3 of this section – Buffer Width and Composition.

D. Buffer Fence or Wall.

(1) A buffer fence or wall shall be a minimum 6 feet in height, opaque and constructed of treated wood (required with ground contact), cedar, redwood, Polyvinyl Chloride (PVC), ornamental steel, aluminum, galvanized or vinyl coated chain link, concrete, stone, brick or other material approved by the City Council. Posts shall be anchored appropriately for material used, and designed to support fence height.

(2) For visual and noise buffer, acoustically designed walls shall be a minimum of six feet in height, opaque, and designed by a registered architect or engineer.

(3) 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.

E. Caliper. A caliper is the American Association of Nurserymen standard for trunk diameter measurement. The measurement is taken six inches above the ground up to and including 4-inch diameter, and 12 inches above the ground for larger sizes. This avoids the larger mass sometimes caused by surface roots in mature trees.

F. Deciduous. Deciduous refers to woody plants that lose their leaves annually.

G. Evergreen. Evergreen refers to woody plants that keep their leaves, such as conifers.
2. Conditions for Requiring a Buffer. Except where excluded, a buffer or other form of visual screening or noise attenuation shall be provided when certain identified land uses or districts abut other identified land uses or districts for which some visual screening and noise attenuation is necessary.

   A. The uses or districts necessitating a buffer as defined in this section are identified in Tables 1 and 2. A buffer must be provided between any nonresidential and residential use, and between single family and multi-family uses.

   B. As part of a site plan or plat, an alternative buffer may be reviewed by the Planning and Zoning Commission and approved by the City Council provided that it meets the intent of this section while recognizing unique conditions such as the actual proposed layout of building and parking areas, site conditions (examples: existing trees, topography, adjacent street) and use of the property.

   C. Any lot for single-family or multi-family use having both its front and rear lot lines abutting a public thoroughfare (a double-frontage lot) shall include at least a 10-foot wide buffer and required buffer materials adjoining the thoroughfare from which no access is planned or permitted.

   D. Any outdoor storage area, garbage storage, or loading docks and loading areas shall be screened from view.

   E. Rooftop and ground level mechanical equipment shall be screened from view from a public street or from an adjacent buffered area.

3. Buffer Width and Composition. Where required, the buffer shall consist of the widths identified in Table 1 and Table 2. Materials required in each buffer are identified in Table 3.
### Table 1 – Buffer Matrix

<table>
<thead>
<tr>
<th>Subject Parcel</th>
<th>Adjacent Parcel</th>
<th>Buffer Width</th>
<th>Buffer Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Residential Districts except R-3 and R-4; Agriculture (A-R)</td>
<td>All Residential Districts except R-3 and R-4; Agriculture (A-R)</td>
<td>20 feet</td>
<td>30 feet</td>
</tr>
<tr>
<td></td>
<td>Multiple Family Residential (R-3 and R-4)</td>
<td>30 feet</td>
<td>50 feet</td>
</tr>
<tr>
<td></td>
<td>Commercial Office (CO); Professional Commerce Park (PC); Industrial Commerce Park (IC)</td>
<td>50 feet</td>
<td>60 feet</td>
</tr>
<tr>
<td>Multiple Family Residential (R-3 and R-4)</td>
<td>Commercial Office (CO); Professional Commerce Park (PC); Industrial Commerce Park (IC)</td>
<td>30 feet</td>
<td>50 feet</td>
</tr>
<tr>
<td>Commercial Office (CO); Professional Commerce Park (PC); Industrial Commerce Park (IC)</td>
<td>Commercial (C-1, C-2 and C-3)</td>
<td>50 feet</td>
<td>30 feet</td>
</tr>
<tr>
<td>Commercial (C-1, C-2 and C-3)</td>
<td>Industrial (M-1 and M-2)</td>
<td>60 feet</td>
<td>30 feet</td>
</tr>
</tbody>
</table>

### Table 2 – Buffer Requirements for Separate Land Use Descriptions

<table>
<thead>
<tr>
<th>Buffer Width From All Residential Land Uses</th>
<th>Separate Land Use Descriptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 feet</td>
<td>Cemeteries; golf courses; passive recreational areas (without sports lighting); wholesale plant nurseries.</td>
</tr>
<tr>
<td>20 feet</td>
<td>Churches; schools; public facilities including playgrounds; recreational facilities (without sports lighting)</td>
</tr>
<tr>
<td>30 feet</td>
<td>Public swimming pools and recreation areas (sports lighting could be included); day care facilities; landscape nurseries</td>
</tr>
<tr>
<td>50 feet</td>
<td>Commercial uses with higher vehicle activities, including but not limited to vehicle repair, vehicle sales and service stations; facilities with drive-up windows; car washes; hotels and motels; shopping centers; light manufacturing and research facilities</td>
</tr>
<tr>
<td>60 feet</td>
<td>Heavy industrial uses; heavy manufacturing; truck terminals; mobile home parks and sales; equipment sales; facilities with outdoor storage; outdoor commercial recreation; facilities with more than one dock door adjacent to residential</td>
</tr>
</tbody>
</table>
A. Planned Unit Development (PUD) and Mixed Use Center (MUC) Districts. Buffers within these districts shall be established by the City Council on a case by case basis at the time a PUD or site plan is approved. On the perimeter of the PUD or MUC Districts, the buffer requirement shall be based on the proposed land use and its equivalent zoning district.

B. Property included in the A-R, Agricultural Reserve District that is used for field crop test production (facilities not included) is exempt from the requirements of this section.

C. When Agricultural Districts are considered for buffer requirements, the future land use designation in the Comprehensive Plan shall be used to determine buffer requirements, unless otherwise specified herein.

D. Contiguous to a Conservation District (CD), the buffer width required shall be flexible. The width, use of fence or wall, and landscaping required will be determined on a case-by-case basis upon review of the site plan, taking into consideration the proposed use of the CD District for open space, trail or other use.

E. Buffer areas may include but are not limited to sidewalks, trails, utilities, surface drainage swales and detention areas only if buffer elements can still be located to meet the intent of this ordinance.

F. Structures (including playground equipment in non-residential land uses), vehicle access and parking are not permitted in buffer areas.

G. Trees and shrubs planted as part of the buffer requirement cannot be used to meet any other landscaping requirement in this ordinance (reference Section 166.32(3) – Landscaping Required), unless specifically approved by the City Council. The area required for the buffer will be removed from the total lot area for calculation of the landscaping requirement.

H. Buffer materials (including topography where berms are proposed) are to be illustrated on an approved plan, within the dimensions of the permanent buffer area. Buffer Materials are required as follows:
Table 3 – Buffer Materials

In cases where the buffer area is shared between two adjacent parcels, the responsibility for required materials shall also be shared. For example, if one half the buffer area is on each parcel, then each parcel is responsible for installing and maintaining one half the buffer materials unless directed otherwise by the City Council.

<table>
<thead>
<tr>
<th>Buffer Width</th>
<th>Required Materials Per 100 Linear Feet†</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 feet wide</td>
<td>4 understory trees and 16 shrubs</td>
</tr>
<tr>
<td>20 feet wide</td>
<td>2 overstory deciduous or evergreen trees; 6 understory trees; and 16 shrubs</td>
</tr>
<tr>
<td>30 feet wide</td>
<td>3 evergreen trees; 1 overstory deciduous tree; 4 understory trees; and 8 shrubs</td>
</tr>
<tr>
<td>50 feet wide</td>
<td>Berm; 4 evergreen trees; 2 overstory deciduous trees; 4 understory trees; and 16 shrubs</td>
</tr>
<tr>
<td>60 feet wide</td>
<td>Berm; 4 evergreen trees; 2 overstory deciduous trees; 6 understory trees; and 24 shrubs</td>
</tr>
</tbody>
</table>

I. Buffer shall be installed as soon as possible, so plants can be established and screening achieved as soon as possible. Installation must be complete before issuance of an occupancy permit. However, if occupancy occurs during the non-planting season, a bond may be posted for landscaping installation.

J. Landscape Plants.

(1) Landscape plants are to be a combination of trees and shrubs and designed to achieve a combined height of at least six feet within three years of installation. Height will be measured from the elevation of the shared property line. The intent is that the landscape buffer should contain a mixture of plants consisting of trees and shrubs to provide a visual screen in three years of installation that will obscure 80 to 90 percent of the view from the ground to a height of six feet.

(2) Variety in species and design is encouraged.

(3) Reference Section 150.02(7) for unacceptable trees.

† Note: Additional plants and/or fence may also be required by the Council in areas where land use activities are more intense.
(4) Size and condition of buffer landscape plant material required at installation:

<table>
<thead>
<tr>
<th></th>
<th>Minimum Size at Installation</th>
<th>Condition</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overstory Deciduous Trees</td>
<td>1½ to 2-inch caliper</td>
<td>Container or balled and burlapped</td>
</tr>
<tr>
<td>Evergreen Trees</td>
<td>4 to 5 feet in height</td>
<td>Container or balled and burlapped</td>
</tr>
<tr>
<td>Understory Deciduous Trees</td>
<td>1¼ inch caliper</td>
<td>Container or balled and burlapped</td>
</tr>
<tr>
<td>Shrubs</td>
<td>2 to 3 feet in height</td>
<td>Container</td>
</tr>
</tbody>
</table>

4. Burden for Construction and Maintenance of a Buffer. It is the intent of this section that adjacent properties requiring a buffer between them will share equally in the development of the buffer, wherever possible. The burden of provision of the buffer shall be as follows:

A. Where two different Zoning Districts or land uses requiring a buffer between them are both in an existing improved condition, the buffer requirement is not retroactive and should a buffer be desired, it shall be by mutual agreement between property owners or as otherwise provided by law. However, in the event that any or all of the improved property is abandoned, destroyed, demolished, etc., for the purpose of renewal or redevelopment, etc., that portion of such property being renewed or redeveloped, shall conform to the provisions of this chapter and the developer of such property shall assume the burden unless otherwise provided herein.

B. Where one of two different Zoning Districts or land uses requiring a buffer between them is developed, the developer of the vacant land shall assume the burden, unless otherwise specified herein.

C. Where both Zoning Districts or land uses requiring a buffer between them are vacant or undeveloped, the burden shall be assumed equally by each developer as the land is improved or developed, and unless otherwise specified herein.

D. Areas designated as prairie restoration on approved plans are exempted from regular mowing.
166.35 ARCHITECTURAL STANDARDS. The requirements, guidelines, and standards set forth in this section shall apply to any development or redevelopment of property within the zoning districts listed and within the City.

1. Statement of Intent. In the interest of promoting the general welfare of the community and to protect the value of buildings and property, the image and character of a community is considered important. It is recognized that the community should be visually attractive, as well as financially prosperous and the manner in which a use is accomplished is as important as the use. The quality of architecture and building construction is important to the preservation and enhancement of building and property values, prevention of the physical deterioration of buildings and the promotion of the image of the community and the general welfare of its citizens. Architectural design and use of materials for the construction of any building shall be subject to the approval of the City Council.

2. Architectural Standards by Zoning District and Use. Architectural plans for buildings shall be submitted simultaneously with an application for site plan review as required in Chapter 171. Documentation to be submitted shall include building elevations showing the building’s design and exterior materials and any other information as deemed necessary to make a determination. Detailed information relating to any lighting or signage on the structure shall be provided, including backlit material or accent lighting. The architectural design shall be in accordance with the standards as contained in this section.

   A. Wall Area Defined. In the application of these requirements, some standards are based upon a percentage of the wall area. The wall area is defined as the total square feet of the exterior elevation of the building that is vertical to the ground. It may contain a gable end or dormer in the same plane of view. It does not contain the elevation area of a pitched roof, but would include the area of a parapet wall. Each elevation must comply with the standards unless otherwise provided for herein or as approved by the City Council.

   B. Multiple-Family Dwellings in All Districts. Multiple-family buildings shall be designed in a manner compatible with residential uses in the vicinity. Architectural design for multiple-family buildings shall attempt to lessen the plainness of appearance which can be characteristic of large residential buildings. Multiple-family buildings with plane walls and boxy appearance are not acceptable. Their architectural design shall use a combination of the following design techniques as appropriate:

   (1) Exterior building materials shall employ a variety of textures and colors and window and door details.

   (2) The roof shall be principally of gable, hip style or similar residential roof design.

   (3) The structures’ perimeter shall be varied when multiple buildings are proposed.

   (4) Multiple buildings shall be sited at angles with one another.

C. Structures within C, PC RO, ROC and IC Districts. Building architectural design within these districts or PUD Districts constituting similar uses shall recognize the importance of material strength and permanency.
through the selection of building materials, and the principle of structural strength and permanency shall dominate the structural and exterior materials and components. The primary material shall constitute at least 75 percent of the wall area, excluding glass. The primary exterior material shall consist of a combination of brick, architectural concrete panels, textured concrete block, or architectural steel, or stone panels. The standard shall apply to all sides of any building. The remaining exterior material shall be considered as building trim. For the purposes of this section, trim is defined as an ornamental design feature, that when removed does not significantly alter the appearance of the building. It would commonly consist of building elements like moldings, cornices, parapet, frieze, sills, lintels, stringcourse, quoining, and ledgement. The maximum amount of trim on the wall area, excluding glass, shall not exceed 25 percent. No wood, masonite, asphaltic exterior wall or roof material, aluminum or steel siding, non-architectural sheet metal, non-textured concrete block, stucco, vinyl, E.I.F.S. (Exterior Insulation and Finish Systems) or other similar materials shall constitute a portion of any building, except as trim.

D. Nonresidential Buildings Abutting Merle Hay Road, NW 86th Street, and NW 62nd Avenue. In order to achieve continuity along these arterial street corridors, buildings abutting or within 300 feet of these arterial streets shall be designed in conformance with paragraph C and in addition, shall have brick constitute at least 50 percent of the wall area that faces the arterial street, excluding glass.

E. All Uses within the M-District: Architectural design shall employ materials common in the district and vicinity of the building. The exclusive use of sheet metal as an exterior building material is not acceptable for buildings in close proximity to public streets. For buildings within 300 feet of the public street, the exterior materials of the wall area facing the public street shall be comprised of no less than 25 percent brick, architectural concrete panels, textured concrete block, architectural steel or stone panels.

F. Other Nonresidential Structures. All other nonresidential structures shall be designed in a manner compatible with their surroundings. Where possible, design shall be in compliance with sections C and D above. However, the City Council, or the Board of Adjustment in a matter involving a special use permit, may prescribe an alternative that would be compatible with existing and proposed structures in the surrounding area.

G. General Provisions.

(1) 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. Preference is given to siting loading docks or loading areas out of view from public streets.

(2) The City Council, in its sole discretion and after receiving a recommendation from the Planning and Zoning Commission, may approve additional primary materials on a case-by-case basis, provided that such materials exhibit the structural strength and permanency desired, contain sufficient architectural relief, and do not
detract from the desired aesthetic character of the building and the surrounding area.

166.36 DOMESTIC AND NON-DOMESTIC ANIMALS.

1. Definitions.
   A. Animals, domestic. A domestic animal is an animal or fowl that is typically accessory to occupancy in a principal dwelling such as a dog, cat, rabbit or potbellied pig, is tame or domesticated and is not considered dangerous by an ordinance of the City. Domestic animals of a smaller nature include gerbils, hamsters, guinea pigs, mice, birds, snakes, ferrets and other similar animals maintained as pets and not for breeding purposes, inside a dwelling.
   B. Animals, non-domestic. Non-domestic animals are accessory to occupancy in a principal dwelling and may consist of small caged animals and fowl such as falcons, pigeons, pheasants, quail, chickens, ducks, geese, and other small animals and fowl of this nature which are kept outside the dwelling and of such type and nature that state and national associations exist establishing norms for breeding, confining and rearing. Pygmy goats and miniature horses are not included.

2. Domestic Animals Restricted. The maximum number of dogs, cats, rabbits and potbellied pigs or animals or fowl of this nature is four (4) adult animals in any combination belonging to the owner of the principal use. There is no limit to the number of smaller animals that may be kept in the dwelling unit.

3. Non-Domestic Animals Restricted. No non-domestic animals are allowed on a lot of less than 20,000 square feet. The number of non-domestic adult animals is limited to two (2) in total number on any parcel greater than 20,000 square feet.

4. Juvenile Animals. The young or juveniles produced by any animal or fowl and maintained with the parent animals are not limited. However, they should be kept for a period of no more than ten (10) weeks, or for a longer period if appropriate for the specific species.

5. Animal Enclosures. Any enclosure constructed to house any animal that is considered a building shall be setback a distance equal to the setback required for an accessory structure in Table 166.23 (5). The animal or fowl under this section may not be maintained, enclosed or fenced in the front yard of a dwelling.

6. Domestic and Non-Domestic Animal Exemption. Exempt from this section are animals inclusive of fowl maintained for educational purposes by schools, day care centers, vocational agricultural programs and for other public education programs; animals inclusive of fowl maintained for display at a zoo, science center, circuses; and the bringing in of such animals and fowl on a temporary basis for exhibits or shows, provided all State requirements are met.

7. Property Owners to Document Currently Lawful Animals. Any animals or fowl of this nature which are made non-conforming by the adoption of this section may be lawful or unlawful (Sections 166.10 - 166.14). If the animals were in conformance with this zoning ordinance prior to the adoption of this section, the use is considered lawful and the owner should obtain written verification from the Zoning Administrator to substantiate their conformance or risk not being able to verify their conformance at some future date.
8. Non-conforming Animals. Property which was non-conforming prior to the adoption of this section may make application for a special exception as provided for in subsection 9 and accompanied by the information the Board requires to make a determination, including the following:

A. The length of time and the approximate maximum and minimum number of animals that have been kept on the property historically.

B. The lot size, site conditions, and orientation to adjacent uses.

9. Special Exception. An application to the Board of Adjustment may be made for a special exception to the provisions of this section. The application shall include a fee as established by resolution of the Council. The Board shall utilize its adopted rules and procedures and follow all provisions of Section 166.16 in reviewing and making decisions on special exceptions allowed by this section, except that notice may be mailed to only adjacent property owners, unless in the opinion of the Zoning Administrator, a broader dissemination of notice is appropriate.

A. The Board of Adjustment may consider the following conditions in the review and approval of a special exception, but is not limited to these considerations:

1. That the exception may have a sunset provision. The sunset may be based upon a change in property ownership or an occupancy change, after which a new application for the exception must be made or the number of animals maintained on the property must conform to this section.

2. That adequate setback exists for cages, hutches, coops, cotes, lofts or other confinement from a property line and a minimum of 25 feet from a neighboring dwelling unit.

3. That confinement structures, exercise areas and feeding areas are of sufficient size for the number of animals proposed to meet applicable standards, including those contained in the Iowa Administrative Code 21-67 and the Animal Care Guidelines of the American Veterinary Medical Association.

4. That the proposed use would not adversely affect the health or safety of the neighboring properties or adversely affect their use of their property.

5. Failure to meet any of the requirements of this section or any condition imposed by the Board of Adjustment in granting a special exception is a violation of this chapter and the property owner may be subject to revocation of the special exception by the Board of Adjustment after notification in writing to the property owner.

6. That the Board may establish a total number of animals, both adult and juvenile, that may be allowed under the exception.

7. The Board may also specify a maximum area and maximum structure that may be used to house the special exception use.

8. The Board may require inspections be performed at specific intervals of time to assure compliance with special exception conditions.
B. Applications for a special exception of an illegal, non-conforming use may take into consideration the duration of time that the use has existed, any complaints made against the animal use, and any features that may distinguish the property and make it suitable for that use, including the size of the property and the surrounding uses.

10. The care of domestic and non-domestic animals shall, at a minimum, meet the standards as contained in the Iowa Administrative Code, 21-67 and the Animal Care Guidelines of the American Veterinary Medical Association, and include the following requirements:

A. The area is maintained free of odors, insects and rodents, and disturbing noises such as crowing, cackling and gobbling, causing no safety or health hazards to the general public.

B. Animals and fowl fed in the confines of their outdoor enclosure shall have all grains and food stored in rodent proof containers.

166.37 SMALL WIND ENERGY CONVERSION SYSTEMS.

1. Intent. The intent of this section is to balance the need for clean, renewable energy resources and the necessity to protect the public health, safety and welfare of the community. The City of Johnston finds these regulations are necessary to ensure that Small Wind Energy Conversion Systems are appropriately designed, sited and installed.

2. Definitions.

A. Height, total system: The height above grade of the system, including the generating unit and the highest vertical extension of any blades or rotors.

B. Lot (or Parcel): Any legally established lot or parcel which contains or could contain a permitted or permitted conditional principal use as provided by Chapter 165 of this Code.

C. Off grid: An electrical system that is not connected to utility distribution and transmission facilities or to any building or structure that is connected.

D. Shadow flicker: Changing light intensity caused by sunlight through the moving blades of a wind energy conversion system.

E. Small Wind Energy Conversion System (SWED): A wind energy conversion system which has a nameplate rated capacity of up to fifteen (15) kilowatts for residential uses and districts and up to one hundred (100) kilowatts for commercial and industrial districts and which is incidental and subordinate to a principal use on the same parcel. A system is considered a SWEDS only if it supplies electrical power solely for use by the owner on the site, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed by the owner for on site use may be used by the utility company in accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code, as amended from time to time.

F. Small Wind Energy Conversion System, Free Standing: A SWEDS which is elevated by means of a monopole tower only and is not located on another supporting structure except that the tower shall have an appropriately
constructed concrete base. Guyed, lattice, or other non-monopole style towers shall not meet this definition.

G. Small Wind Energy Conversion System, Horizontal Axis: A small wind energy conversion system where the main rotor shaft runs horizontally or parallel to the ground.

H. Small Wind Energy Conversion System, Building Mounted: A SWECS which is securely fastened to any portion of a principal building in order to achieve desired elevation, whether attached directly to the principal building or attached to a tower structure which is in turn fastened to the principal building.

I. Small Wind Energy Conversion System, Vertical Axis: A small wind energy conversion system where the main rotor shaft runs vertically or perpendicular to the ground.

J. Tower: The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.

K. Wind Energy Conversion System (WECS): An aggregation of parts including the foundation, base, tower, generator, rotor, blades, supports, guy wires and accessory equipment such as utility interconnect and battery banks, etc., in such configuration as necessary to convert the power of wind into mechanical or electrical energy, e.g., wind charger, windmill or wind turbine.

L. Wind turbine generator: The component of a wind energy conversion system that transforms mechanical energy from the wind into electrical energy.

3. General Regulations.

A. Special Use Permit. A Small Wind Energy Conversion System (SWECs) shall be allowed only as a Special Use Permitted accessory use.

B. Zoning. SWECs may be allowed in all zoning districts subject to the provisions contained herein and elsewhere within Chapters 165-172 of this Code.

C. Permit Required. It shall be unlawful to construct, erect, install, alter or locate any SWECs within the City of Johnston, unless a special use permit has been obtained from the Board of Adjustment, as specified in Chapter 172. The special use permit may be revoked by resolution of the Board of Adjustment any time the approved system does not comply with the rules set forth in this section and the conditions imposed by the Board of Adjustment. The owner/operator of the SWECs must also obtain any other permits required by other federal, state and local agencies/departments prior to constructing the system.

D. Number of Systems per Zoning Lot.

(1) Residential Use. No more than one (1) freestanding SWECs may be placed on any parcel or lot zoned for residential use. Building mounted SWECs shall be prohibited on any parcel or lot containing a one (1) or two (2) family use.

(2) Commercial, Industrial, and Institutional Use. No more than one (1) freestanding SWECs may be placed any parcel or lot with a
commercial, industrial, or institutional use that is taller than the tallest existing principal building located on said parcel or lot. Additional freestanding SWECS which conform to setback requirements contained herein and which are no taller than the tallest existing principal building located on said parcel or lot may be allowed. Additional building mounted SWECS may be allowed within the parameters herein below. However, in no case shall the generating capacity of aggregated SWECS exceed anticipated energy needs for on site consumption.

(3) Mixed Use. Any building containing both residential and commercial uses or described as a “Mixed Use” building, shall be considered to be a commercial use for the purposes of this section.

E. Tower. Only monopole towers shall be permitted for freestanding SWECS. Lattice, guyed or towers of any other type shall not be considered to be in compliance with this section.

F. Color. Freestanding SWECS shall be a neutral color such as white, sky blue or light gray. Building mounted SWECS shall match the color of the building on which it is mounted. Other colors may be allowed at the discretion of the Board of Adjustment. The surface shall be non-reflective.

G. Lighting. No lights shall be installed on the tower, unless required to meet FAA regulations.

H. Signage. No signage or advertising of any kind shall be permitted on the tower or any associated structures.

I. Climbing Apparatus. The tower must be designed to prevent climbing within the first ten feet (10').

J. Maintenance. Facilities shall be well maintained in accordance with manufacturer’s specifications and shall remain in an operational condition that poses no potential safety hazard nor is in violation of any provisions contained within this section or elsewhere within the City Code.

K. Displacement of Parking Prohibited. The location of the SWECS shall not result in the net loss of required parking as specified elsewhere in the City Zoning Ordinance.

L. Utility Notification. The City of Johnston shall notify the utility of receipt of an application to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this notification requirement.

M. Interconnection. The SWECS, if not off-grid, shall meet the requirements for interconnection and operation as set forth by the utility and the Iowa Utilities Board. No permit of any kind shall be issued until the City of Johnston has been provided with a copy of an executed interconnection agreement. Off-grid systems shall be exempt from this requirement.

N. Restriction On Use of Electricity Generated. A SWECS shall be used exclusively to supply electrical power to the owner for on site consumption, except that excess electrical power generated by the SWECS and not presently needed for use by the owner may be used by the utility company in
accordance with Section 199, Chapter 15.11(5) of the Iowa Administrative Code, as may be subsequently amended.

O. Noise. A SWECS shall be designed, installed and operated so that the noise generated does not exceed 55 decibels (dBA), as measured at the nearest neighboring property line, except during short-term events including utility outages and severe wind storms.

P. Shadow Flicker. No SWECS shall be installed and operated so to cause a shadow flicker to fall on or in any existing residential structure.

Q. Safety Controls. Each SWECS shall be equipped with both an automatic and manual braking, governing, or feathering system to prevent uncontrolled rotation, over-speeding, and excessive pressure on the tower structure, rotor blades, or turbine components. Said automatic braking system shall also be capable of stopping turbine rotation in the event of a power outage so as to prevent back feeding of the grid.

R. Shut Off. A clearly marked and easily accessible shut off for the wind turbine will be required as determined by the Fire Chief, Building Official or Zoning Administrator.

S. Electromagnetic Interference. All SWECS shall be designed and constructed so as not to cause radio and television interference. If it is determined that the SWECS is causing electromagnetic interference, the owner/operator shall take the necessary corrective action to eliminate this interference including relocation or removal of the facilities, subject to the approval of the appropriate City authority. A permit granting a SWECS may be revoked if electromagnetic interference from the SWECS becomes evident.

T. Wind Access Easements. The enactment of this section does not constitute the granting of an easement by the City of Johnston. The SWECS owner/operator shall have the sole responsibility to acquire any covenants, easements, or similar documentation to assure and/or protect access to sufficient wind as may or may not be necessary to operate the SWECS.

U. Insurance. The owner/operator of a SWECS must demonstrate and maintain liability insurance of not less than $1,000,000 coverage.

V. Engineer Certification. Applications for any SWECS shall be accompanied by standard drawings of the wind turbine structure, including the tower, base, and footings. An engineering analysis of all components of the SWECS showing compliance with the applicable regulations and certified by an Iowa licensed professional engineer shall also be submitted.

W. Installation. Installation must be done according to manufacturer’s recommendations. All wiring and electrical work must be completed according to the applicable building and electric codes. All electrical components must meet code recognized test standards.

X. Removal. If the SWECS remains nonfunctional or inoperative for a continuous period of six (6) months, the system shall be deemed to be abandoned. The SWECS owner/operator shall remove the abandoned system at their expense. Removal of the system includes the entire structure, transmission equipment and fencing from the property excluding foundations. Non-function or lack of operation may be proven by reports from the
interconnected utility. For off-grid systems the City of Johnston shall have the right to enter the property at its sole discretion to determine if the off-grid system is generating power. Such generation may be proven by use of an amp meter. The SWECS owner/operator and successors shall make available to the Zoning Administrator or their designee all reports to and from the purchaser of energy from the SWECS if requested. If removal of towers and appurtenant facilities is required, the Zoning Administrator or designee shall notify the SWECS owner/operator. Removal shall be completed within six (6) months of written notice to remove being provided to the owner/operator by the City of Johnston.

Y. Right Of Entrance. As a condition of approval of a special use permit an applicant seeking to install SWECS shall be required to sign a petition and waiver agreement which shall be recorded and run with the land granting permission to the City of Johnston to enter the property to remove the SWECS pursuant to the terms of approval and to assure compliance with the other conditions set forth in the permit. Removal shall be at the expense of the owner/operator and the cost may be assessed against the property.

Z. Feasibility Study. It is highly recommended that a feasibility study be made of any site prior to installing a wind turbine. The feasibility study should include measuring actual wind speeds at the proposed turbine site for at least 3 months.

4. Bulk Regulations.

A. Setbacks.

(1) The minimum distance between any freestanding SWECS and any property line shall be a distance that is equivalent to one hundred fifty percent (150%) of the total system height. The setback shall be measured from the property line to the point of the SWECS closest to the property line.

(2) The required setback for any building mounted SWECS shall be equal to the required setback of the principal building to which the SWECS is to be attached at such time that the application to install a building mounted SWECS is received by the City of Johnston.

B. Maximum Height. Height shall be measured from the ground to the top of the tower, including the wind turbine generator and blades.

(1) For lots of more than forty thousand (40,000) square feet and fewer than three (3) acres, the maximum height shall be 65 feet.

(2) For lots of three (3) to seven (7) acres, the maximum height shall be 80 feet.

(3) For lots of more than seven (7) acres the maximum height shall be 100 feet.

(4) Building mounted SWECS may be a maximum of 10 feet higher than the point of attachment to the building on which they are attached.

C. Minimum Lot Size. The minimum lot size for a SWECS shall be forty thousand (40,000) square feet.
D. Clearance of Blade. No portion of a horizontal axis SWECS blade shall extend within 30 feet of the ground. No portion of a vertical axis SWECS shall extend within 10 feet of the ground. No blades may extend over parking areas, driveways or sidewalks. No blade may extend within 20 feet of the nearest tree, structure or above ground utility facilities.

E. Location.

1. No part of a SWECS shall be located within or over drainage, utility or other established easements.

2. A freestanding SWECS shall be located entirely in the rear yard.

3. A SWECS shall be located in compliance with the guidelines of applicable Federal Aviation Administration (FAA) regulations as amended from time to time.

4. No SWECS shall be constructed so that any part thereof can extend within 20 feet laterally of an overhead electrical power line (excluding secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least five (5) feet.

5. Building mounted SWECS shall be prohibited unless the owner has obtained a written analysis from an Iowa licensed structural engineer determining that installation of a SWECS will not cause damage to the structure and that the SWECS can be securely fastened so as to not pose a hazard caused by detaching from the structure.

5. Application Required. Application for SWECS shall be made on forms provided by the City of Johnston. No action may be taken regarding requests for SWECS until completed applications have been filed and fees paid.

(Ord. 820 – Aug. 10 Supp.)

166.38 BUS STOP SHELTERS. The following regulations shall apply to all bus stop shelters constructed in any district as defined elsewhere in the chapter, and the following:

1. All applicants shall be responsible for submitting a site plan to the Zoning Administrator for approval subject to the administrative approval requirements that are within Chapter 171 of the Johnston revised ordinances of 2007.

2. All bus stop shelters must comply with the requirements found in Chapter 170 Zoning – Sign Regulations except Section 170.06.12 regarding billboards/off-premise signs and Section 170.18 regarding permits and fees.

3. A building permit is required for construction of any bus stop shelter.

4. All bus stop shelters shall be located on private property, with written permission from the property owner prior to issuance of a building permit.

5. All bus stop shelters shall not be located within any vision triangle or otherwise unnecessarily or unsafely obstruct the flow of traffic, as determined by the city. Bus stop shelters shall be set back a minimum of five feet (5') from side and rear property lines unless a written agreement is in place with the adjacent property owner.
to allow the shelter closer to or over the property line, and shall have no minimum setback from the right of way.

6. All bus stop shelters must be constructed on an impervious surface.

7. One sign on each side of the bus shelter indicating that the shelter is a bus stop and including the logo of the bus company is allowed. Transit information displayed or posted in the bus stop shelter (i.e. route maps and schedules) is not regulated by this section.

8. One two-sided display ad may be placed on the bus stop shelter, limited in size to no larger than four feet by six feet (4’ x 6’).

9. Shelter materials shall be made up of predominantly glass and steel, unless approved by the City Council and are exempt from Section 166.35 Architectural Standards.

10. No bus stop shelter shall be constructed over any utility easement.

11. Sidewalks shall be installed to connect the bus stop shelter to the street and adjacent pedestrian walkways.

12. Vandalism, decay, deterioration, or other damage to, unto, on, or around the bus stop shelter shall be cleaned and/or repaired by the shelter owner within forty eight (48) hours of notification by the City.

(Ord. 853 – Aug. 12 Supp.)
EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map described in Section 166.02 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.

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CHAPTER 167

ZONING DISTRICT REGULATIONS:
RESIDENTIAL, AGRICULTURAL AND
CONSERVATION DISTRICTS

167.01 Application. The restrictions, regulations, standards and guidelines in this chapter for land use and development shall apply to the following Zoning Districts within the City:

- A-R Agriculture Reserve District
- CD Conservation District
- R-E Estates District
- R-1 Single Family Residential District
- R-1A Modified Single Family Residential District
- R-2 One and Two Family Residential District
- R-3 Medium Density Multiple Family Residential District
- R-4 High Density Multiple Family Residential District
- R-5 Mobile Home Park District

See Chapter 168 for additional Zoning District Regulations.

167.02 Statement of Intent. The following sections specify the purpose and intent of the zoning districts established to regulate areas of the City considered appropriate for residential, agriculture, and conservation uses.

1. Agriculture Reserve District. The A-R District is intended to provide for the protection and preservation of agricultural land within the incorporated area of the City. As an urban area, intensive agriculture activity is not considered appropriate. These uses would adversely effect adjacent development. This district recognized two distinct purposes for the A-R District.
   A. The district would protect agricultural areas that provide a stable and productive use until converted to urban land uses.
   B. The district would protect agriculture areas that have been identified in the Comprehensive Plan for long-term agriculture research and testing due to the unique soil characteristics present in the City.

   Accessory uses would include the usual agricultural buildings and structures, provided all buildings or structures permanently housing livestock or poultry are located more than two hundred (200) feet from all property lines.

2. Residential Estates District. The R-E District is intended to provide for the development of residential uses on large lots that will have limited public services and to permit limited agricultural land uses with these residential uses in those portions of the City where they are appropriate.
CHAPTER 167  
ZONING DISTRICT REGULATIONS: 
RESIDENTIAL, AGRICULTURAL AND CONSERVATION DISTRICTS

3. Residential District. The Residential Zoning Districts are intended and designed to preserve existing single family residential neighborhoods and to promote new single family residential neighborhoods with a desired diversity of single family housing sizes and costs.

4. Conservation District. The CD Zoning District is intended to preserve and protect heavily wooded areas, areas of extreme slopes, rivers, stream banks, and flood plains of the City from adverse future development. It is also intended that development of the flood plains be restricted to minimize the danger to life and property, which results from development undertaken without full realization of such danger. The recommended land uses are open space uses similar to agriculture, farming and parks. Single family dwellings are permitted when accessory to the agriculture use.

Accessory uses to agriculture and farming would include customary farm buildings and a single-family dwelling. Accessory uses to recreational parks would include park playground equipment, shelters, and other similar uses.

167.03 USE REGULATIONS. The purpose of this section is to indicate which uses of land and structures may locate in each Agriculture, Conservation and Residential District and which uses may not locate therein. The designations used in the table reference applicable procedures that may apply as identified below. In the event a use is not listed, the Zoning Administrator shall make a determination if the use is consistent by type, intensity, physical characteristics, style, size, and purpose with the uses listed in Table 167.03. All uses are subject to any other applicable provision of this zoning ordinance and any other chapter of this Code of Ordinances.

1. “P” – Permitted. The land uses and structures in Table 167.03 designated as Permitted (P) are allowed.

2. “S” – Special Use Permit. The land uses and structures in Table 167.03 designated as Special Use Permit (S) may be permitted subject to approval of a special use permit by the Board of Adjustment in accordance with Chapter 172.

3. “A” – Accessory Use. The land uses and structures in Table 167.03 designated as Accessory (A) may exist as part or in accessory to a principal use and subject to the accessory building limitations in Section 166.23.

4. “SPR” – Site Plan Review. The land uses and structures in Table 167.03 designated as Site Plan Review (SPR) may be permitted provided that a Site Plan Review approval is obtained as prescribed by Chapter 171 by the City Council after review and recommendation by the Planning and Zoning Commission.

5. “-” – Not Permitted. The land use and structures so designated are not allowed in the District.
<table>
<thead>
<tr>
<th>Table 167.03 – Permitted Uses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td><strong>CD</strong></td>
</tr>
<tr>
<td>--------------------------------</td>
</tr>
<tr>
<td>Agriculture Uses</td>
</tr>
<tr>
<td>Agriculture production - crops, vegetables, fruit, forestry, aquaculture</td>
</tr>
<tr>
<td>Agricultural research and testing facilities</td>
</tr>
<tr>
<td>Seasonal roadside stands</td>
</tr>
<tr>
<td>Nurseries, greenhouses, and gardens</td>
</tr>
<tr>
<td>Nurseries, greenhouses, and gardens with retail sales of the goods produced on the premises</td>
</tr>
<tr>
<td>Agricultural production - livestock</td>
</tr>
<tr>
<td>Intensive Agriculture-livestock</td>
</tr>
<tr>
<td>Commercial stable</td>
</tr>
<tr>
<td>Stable (see A overlay zone)</td>
</tr>
<tr>
<td>Residential Uses</td>
</tr>
<tr>
<td>Bed and Breakfast Inn</td>
</tr>
<tr>
<td>Roomers and Boarders (1 guest room)</td>
</tr>
<tr>
<td>Rooming or Boarding House (2 or more guest rooms)</td>
</tr>
<tr>
<td>Dwelling, single family detached</td>
</tr>
<tr>
<td>Dwelling, caretaker</td>
</tr>
<tr>
<td>Dwelling, bi-attached</td>
</tr>
<tr>
<td>Dwelling, multiple family (3 or more units)</td>
</tr>
<tr>
<td>Animals, domestic (see Section 166.36)</td>
</tr>
<tr>
<td>Animals, non-domestic (see Section 166.36)</td>
</tr>
</tbody>
</table>

*Table continued on next page*

† In District R-1(75) only
### Table 167.03 – Permitted Uses

<table>
<thead>
<tr>
<th>Description</th>
<th>CD</th>
<th>AR</th>
<th>R-E</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>R-4</th>
<th>R-5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Group care facility (9 or more individuals)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>S</td>
<td>S</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Group home (8 or less individuals)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Nursing and convalescent home</td>
<td>-</td>
<td>-</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Assisted living residential facility</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Home Occupations (see Section 166.28)</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Rescue missions and shelters</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Accessory dwelling unit, servant’s quarters</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>P</td>
<td>P</td>
<td>P</td>
</tr>
<tr>
<td>Accessory retail establishments and refreshment stands</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>A</td>
<td>A</td>
<td></td>
</tr>
<tr>
<td>Mobile home</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>SPR</td>
</tr>
</tbody>
</table>

### Recreation uses

<table>
<thead>
<tr>
<th>Description</th>
<th>CD</th>
<th>AR</th>
<th>R-E</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>R-4</th>
<th>R-5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Park, including playground, tennis court, picnic facilities, golf courses, and recreation areas</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td></td>
</tr>
<tr>
<td>Club houses, tennis courts, or playground equipment, or other accessory buildings and structures when associated with parks</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
<td>A</td>
</tr>
<tr>
<td>Golf, swimming, and tennis clubs or country clubs</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Sports, exercise, and fitness clubs</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Miniature golf course</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td></td>
</tr>
<tr>
<td>Boat houses and marinas</td>
<td>S</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Campground or RV Park</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
</tbody>
</table>

### Other Uses

<table>
<thead>
<tr>
<th>Description</th>
<th>CD</th>
<th>AR</th>
<th>R-E</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>R-4</th>
<th>R-5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cemeteries</td>
<td>-</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
</tbody>
</table>
## Table 167.03 – Permitted Uses

<table>
<thead>
<tr>
<th>Uses</th>
<th>CD</th>
<th>AR</th>
<th>R-E</th>
<th>R-1</th>
<th>R-2</th>
<th>R-3</th>
<th>R-4</th>
<th>R-5</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cemeteries, including mausoleums and crematoriums</td>
<td>-</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Communication tower and wireless equipment (See Section 172.03(15))</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
</tr>
<tr>
<td>Day Care Home</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>P</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Day Care Center, Day Nursery or Nursery School</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Churches and other places of religious worship</td>
<td>-</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Kennel</td>
<td>P</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Public and parochial schools (elementary and secondary)</td>
<td>-</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Colleges and universities, both publicly and privately owned</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Hospitals</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Museums and libraries</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
<tr>
<td>Buildings and uses owned by a city, county, state or other political subdivision which are operated for the social benefit or convenience of the public, but excluding equipment storage yards and garages</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>S</td>
<td>SPR</td>
<td>SPR</td>
<td>SPR</td>
</tr>
</tbody>
</table>

*(Ord. 774 – Feb. 08 Supp.)*
### 167.04 SETBACK, BULK AND DENSITY REGULATIONS.

The requirements as set forth in Table 167.04 shall be observed in the Agriculture, Conservation and Residential Districts.

#### Table 167.04 – Setback, Bulk and Density Standards by District

<table>
<thead>
<tr>
<th></th>
<th>Maximum DU/AC</th>
<th>Maximum Building Height (in feet)</th>
<th>Minimum Lot Area (square feet)</th>
<th>Minimum Lot Width (feet)</th>
<th>Minimum Setback (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Single family detached</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>A-R Agriculture Reserve</td>
<td>0.033</td>
<td>none</td>
<td>30 ac.</td>
<td>660</td>
<td>75</td>
</tr>
<tr>
<td>CD Conservation District</td>
<td>0.046</td>
<td>none</td>
<td>80,000</td>
<td>200</td>
<td>50</td>
</tr>
<tr>
<td>R-E</td>
<td>0.33</td>
<td>35</td>
<td>3 ac.</td>
<td>225</td>
<td>50</td>
</tr>
<tr>
<td>R-1(150)</td>
<td>0.875</td>
<td>35</td>
<td>40,000</td>
<td>150</td>
<td>40</td>
</tr>
<tr>
<td>R-1(100)</td>
<td>1.97</td>
<td>35</td>
<td>15,000</td>
<td>100</td>
<td>40</td>
</tr>
<tr>
<td>R-1(90)</td>
<td>2.60</td>
<td>35</td>
<td>12,500</td>
<td>87</td>
<td>35</td>
</tr>
<tr>
<td>R-1(75)</td>
<td>3.44</td>
<td>35</td>
<td>9,500</td>
<td>75</td>
<td>35</td>
</tr>
<tr>
<td>R-1(60), R-2</td>
<td>4.35</td>
<td>35</td>
<td>7,500</td>
<td>60</td>
<td>30</td>
</tr>
<tr>
<td><strong>Single-family bi-attached</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R-1(75) (with special use permit)</td>
<td>5.4</td>
<td>35</td>
<td>16,000</td>
<td>100</td>
<td>35</td>
</tr>
<tr>
<td>R-2</td>
<td>7.0</td>
<td>35</td>
<td>12,500</td>
<td>100</td>
<td>30</td>
</tr>
<tr>
<td>R-3, R-4</td>
<td>7.0</td>
<td>35</td>
<td>12,500</td>
<td>100</td>
<td>50</td>
</tr>
<tr>
<td><strong>Townhouses, Condominiums, Multiple Unit Dwellings</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>R-3</td>
<td>8.0</td>
<td>35</td>
<td>80,000</td>
<td>200</td>
<td>50</td>
</tr>
<tr>
<td>R-4</td>
<td>16.0</td>
<td>50</td>
<td>80,000</td>
<td>200</td>
<td>50</td>
</tr>
<tr>
<td>R-5</td>
<td>16.0</td>
<td>50</td>
<td>200,000</td>
<td>200</td>
<td>50</td>
</tr>
</tbody>
</table>

*The bulk requirements are applicable to the development site. For multiple structures on a site, refer to the requirements in Section 167.05.

*Table continued on following page.*
Table 167.04 – Setback, Bulk and Density Standards by District

<table>
<thead>
<tr>
<th>Other Uses*</th>
<th>Maximum DU/AC</th>
<th>Maximum Building Height (in feet)</th>
<th>Minimum Lot Area (square feet)</th>
<th>Minimum Lot Width (feet)</th>
<th>Minimum Setback (in feet)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mobile Home Park</td>
<td>8.0</td>
<td>50</td>
<td>200,000</td>
<td>50</td>
<td>50</td>
</tr>
<tr>
<td>Day Care Center</td>
<td>NA</td>
<td>35</td>
<td>40,000</td>
<td>200</td>
<td>50</td>
</tr>
<tr>
<td>Other Special Uses</td>
<td>NA</td>
<td>35</td>
<td>80,000</td>
<td>175</td>
<td>50</td>
</tr>
<tr>
<td>Nursing, Convalescent or Assisted Living</td>
<td>16 DU or 32 beds</td>
<td>50</td>
<td>80,000</td>
<td>200</td>
<td>50</td>
</tr>
</tbody>
</table>

* The bulk requirements are applicable to the development site. For multiple structures on a site, refer to the requirements in Section 167.05.
167.05 BULK REQUIREMENTS FOR MULTIPLE RESIDENTIAL BUILDINGS.
The construction of multiple principal structures within any R-3, R-4 or R-5 District shall meet the applicable standards for the internal placement of structures within any site plan review submitted for review by the Planning and Zoning Commission and approval by the City Council.

1. Multiple family dwellings including apartment buildings in District R-3 shall follow the bulk requirements as contained in Table 167.05(1).

**Table 167.05(1)**
**District R-3 Internal Bulk Requirements**

<table>
<thead>
<tr>
<th>Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum separation between principal buildings</td>
</tr>
<tr>
<td>Minimum separation between principal buildings when that wall surface</td>
</tr>
<tr>
<td>is the only source of light and air for the living unit</td>
</tr>
<tr>
<td>Minimum separation between principal and accessory buildings</td>
</tr>
<tr>
<td>Minimum separation between garage and edge of common drive (driveway</td>
</tr>
<tr>
<td>approach)</td>
</tr>
<tr>
<td>Minimum lot area per unit</td>
</tr>
<tr>
<td>Maximum accessory structure height</td>
</tr>
<tr>
<td>Maximum accessory structure setback from property boundary</td>
</tr>
<tr>
<td>Maximum accessory structure setback from another accessory structure</td>
</tr>
</tbody>
</table>

2. Multiple Family Dwellings including apartment buildings in District R-4 shall follow the bulk requirements as contained in Table 167.05(2).

**Table 167.05(2)**
**District R-4 Internal Bulk Requirements**

<table>
<thead>
<tr>
<th>Standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum separation between principal buildings</td>
</tr>
<tr>
<td>Minimum separation between principal buildings when that wall surface</td>
</tr>
<tr>
<td>is the only source of light and air for the living unit</td>
</tr>
<tr>
<td>Minimum separation between principal and accessory buildings</td>
</tr>
<tr>
<td>Minimum lot area per unit</td>
</tr>
</tbody>
</table>

3. Multiple Family Dwellings including apartment buildings in District R-3 and R-4 shall follow the performance standards below:

   A. All internal drives shall meet the Urban Standard Specifications for Public Improvements (SUDAS) and the Special Provisions for the City.
   B. The multiple building site plan shall demonstrate that internal circulation is satisfactory to allow safe and convenient access while providing safety to pedestrians within the development by the provision of sidewalks and pedestrian trails through the development.

4. Multiple Family Dwellings including apartment buildings in District MUC shall follow the performance standards below:

   A. Mixed-use buildings combining residential on the second story and commercial on the first story shall be designed to create a living environment
5. Day care center, day nursery or nursery school licensed by the State of Iowa, provided no building, structure, or accessory use for property so used is located less than 25 feet from any adjoining an R District boundary; and provided there is established and well maintained in connection therewith a completely fenced play lot of no less than 1,000 square feet in area for the first 20 or fewer children under care, with 25 square feet added to such play lot area for each additional designated child capacity of the principal building.

6. Mobile Home Park. A mobile home park in District R-5 is subject to the bulk requirements as contained in Table 167.05(6). The approval of a mobile home park is subject to site plan review approval as specified in Chapter 171.

<table>
<thead>
<tr>
<th>Table 167.05(6) Mobile Home Park Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Standard</td>
</tr>
<tr>
<td>Minimum lot area devoted to one mobile home</td>
</tr>
<tr>
<td>Minimum separation between mobile homes</td>
</tr>
<tr>
<td>Minimum separation between any mobile home and any accessory structure</td>
</tr>
<tr>
<td>Minimum setback from any building or mobile home and any driveway, walkway, or lot boundary</td>
</tr>
<tr>
<td>Maximum accessory building height</td>
</tr>
<tr>
<td>Automobile parking per lot</td>
</tr>
<tr>
<td>Minimum required open space</td>
</tr>
<tr>
<td>Useable outdoor space area contiguous to each mobile home unit</td>
</tr>
<tr>
<td>Useable outdoor space minimum width</td>
</tr>
</tbody>
</table>
CHAPTER 167
ZONING DISTRICT REGULATIONS:
RESIDENTIAL, AGRICULTURAL AND CONSERVATION DISTRICTS

[The next page is 1085]
CHAPTER 168
ZONING DISTRICT REGULATIONS

168.01 Application
168.02 R-1A (Modified Single Family Residential) Zoning District Regulations
168.03 CO (Commercial Office) Zoning District Regulations
168.04 C-1 (Neighborhood Commercial) Zoning District Regulations
168.05 C-2 (Community Retail Commercial) Zoning District Regulations
168.06 C-3 (Highway Service Commercial) Zoning District Regulations
168.07 PC (Professional Commerce Park) Zoning District Regulations
168.08 IC (Industrial Commerce Park) Zoning District Regulations
168.09 M-1 (Light Industrial) Zoning District Regulations
168.10 M-2 (General Industrial) Zoning District Regulations
168.11 PUD (Planned Unit Development) Zoning District Regulations
168.12 MUC (Mixed Use Center Planned Development) Zoning District Regulations
168.13 GF (Government Facility) Zoning District Regulations

168.01 APPLICATION. The restrictions, regulations, standards and guidelines in this chapter and in Chapter 169 for land use and development shall apply to the following Zoning Districts within the City:

ZONING DISTRICTS

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1A</td>
<td>Modified Single Family Residential</td>
</tr>
<tr>
<td>CO</td>
<td>Commercial Office District</td>
</tr>
<tr>
<td>C-1</td>
<td>Neighborhood Commercial District</td>
</tr>
<tr>
<td>C-2</td>
<td>Community Retail Commercial District</td>
</tr>
<tr>
<td>C-3</td>
<td>Highway Service Commercial District</td>
</tr>
<tr>
<td>PC</td>
<td>Professional Commerce Park District</td>
</tr>
<tr>
<td>IC</td>
<td>Industrial Commercial Park District</td>
</tr>
<tr>
<td>M-1</td>
<td>Light Industrial District</td>
</tr>
<tr>
<td>M-2</td>
<td>General Industrial District</td>
</tr>
<tr>
<td>PUD</td>
<td>Planned Unit Development District</td>
</tr>
<tr>
<td>MUC</td>
<td>Mixed Use Center</td>
</tr>
<tr>
<td>GF</td>
<td>Government Facility District</td>
</tr>
</tbody>
</table>

OVERLAY ZONING DISTRICTS

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>FW</td>
<td>Floodway Overlay Zoning District</td>
</tr>
<tr>
<td>FF</td>
<td>Floodway Fringe Overlay Zoning District</td>
</tr>
<tr>
<td>FP</td>
<td>General Flood Plain Overlay Zoning District</td>
</tr>
<tr>
<td>MHR</td>
<td>Merle Hay Road Corridor Overlay Zoning District</td>
</tr>
<tr>
<td>A</td>
<td>Animal Keeping Overlay Zoning District</td>
</tr>
<tr>
<td>CL</td>
<td>Cluster Overlay Zoning District</td>
</tr>
</tbody>
</table>
CHAPTER 168  ZONING DISTRICT REGULATIONS

168.02 R-1A (MODIFIED SINGLE FAMILY RESIDENTIAL) ZONING DISTRICT REGULATIONS. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the R-1A Modified Single Family Residential District.

1. Statement of Intent. The R-1A District is intended and designed to permit the continuation of low density residential areas existing in the R-1A District at the time of the adoption of the R-1A District and provide for the location of animals and permit their continued husbandry, and provision of accessory buildings housing such animals.

2. Principal Permitted Uses. Only the use of structures or land listed in this section shall be permitted in the R-1A District.
   A. A single family dwelling on each lot. No temporary buildings, trailers or mobile homes, tents, portable or potentially portable structures shall be used for dwelling purposes.
   B. Publicly owned parks, playgrounds, golf courses, and recreation areas.

3. Permitted Accessory Uses. The following uses are permitted as part of, or in accessory to the principal permitted and special uses.
   A. One building incidental to the permitted use or children’s playhouse provided such structure shall not exceed 300 square feet in gross floor area and shall not be used for dwelling purposes.
   B. Normal accessory buildings and structures for public recreation areas such as: refreshment stands, playground equipment, all-weather shelters, tennis courts, barbecue pits, etc.
   C. Normal accessory buildings and structures associated with the keeping of domestic animals similar to and including cats, dogs, birds, and tropical fish.
   D. Private flower and vegetable gardening for non-commercial gain.
   E. Private greenhouses and horticultural nurseries for non-commercial gain.
   F. Day care home.
   G. The taking of boarders or the leasing of rooms by a resident family, provided the total number of boarders and roomers does not exceed two (2) per dwelling unit.
   H. Temporary use of a structure within a new subdivision as a job office and real estate office for the subject subdivision, which use shall terminate upon completion or abandonment of the project.
   I. Agricultural crops, truck farming, tree farms, and orchards, provided that no offensive odors are created and provided further, that no retail sales shall be permitted on the premises.
   J. Livestock keeping, provided that no offensive odors or dust are created and provided further that the following animals and poultry may be kept, for personal use only, and not for commercial use.
(1) Horses, bovine animals, sheep, and goats.
   a. One or two animals of any one kind or combination thereof may be kept on any one lot of a minimum 43,560 square feet in area.
   b. One additional animal may be added for each additional 43,560 square feet over 43,560 square feet.

(2) Poultry, rabbits, chinchillas, mink, hamsters, pigeons, and other fowl or small animals.
   a. Not more than six or any one or combination of such poultry, fowl, or small animals may be kept on any lot of less than 21,780 square feet in area.
   b. Not more than six of any one kind or combination thereof may be added for each additional 21,780 square feet up to a maximum of 24 animals.

(3) In determining the area of a lot for the purpose of determining the number of animals or fowl which may be kept, only useable land shall be considered. Useable land shall be determined upon examination of the land. Useable land is defined as that land which due to topography, soil type, drainage pattern, and vegetation coverage shall not cause drainage from animal or fowl waste onto any other property. Useable land is further defined as containing a minimum of 15,000 square feet which is clear of buildings, heavy vegetation, or other structures for the purpose of pasturing horses, bovine animals, sheep, or goats on a lot of one acre or more.

(4) Grazing of livestock or poultry shall be allowed as follows:
   a. Not less than 50 feet from any structure either now or in the future used for dwelling purposes.
   b. Not less than 100 feet from any well being used for potable water.

(5) All livestock and poultry must be placed in a structurally sound fence, pen or building.

(6) Animals shall not create or constitute a nuisance whether by excessive noise or otherwise.

(7) All offensive odors created by the animals shall be prohibited; the area where the animals are permitted shall be kept clean and free from debris and animal waste; and any animal waste shall not be permitted to drain onto any other property, whether adjoining or not.

(8) Disposal of animal waste shall conform to the current Polk County Local Board of Health rules and regulations.

(9) Any owner of animals shall comply with all statues, ordinances and regulations regarding health and safety of the State, County and City.
4. **Bulk Regulations for Accessory Structures.** See Section 166.23, Accessory Buildings and Garages.

5. **Permitted Uses Requiring Site Plan Review.** The following uses may be permitted in the R-1A Modified Single Family Residential Dwelling District.

   A. Churches, chapels, temples, and similar places of worship.

   B. Educational schools, public and parochial schools (elementary and secondary), colleges and universities facilities and institutions including elementary schools, junior high schools, high schools and colleges, both public and privately owned providing for the general education of mankind.

   C. Golf, swimming, and tennis clubs or country clubs and similar public and non-commercial privately owned uses.

6. **Special Uses.** The following uses may be permitted in the R-1A Modified Single Family Residential District subject to the approval of a special use permit by the Board of Adjustment in accordance with Chapter 172 after notice and public hearing.

   A. **Two existing detached single family dwellings as identified in Section 166.22.** If an existing lot containing two dwellings is reduced in size, such dwellings and the new lot containing them shall be subject to the bulk requirements of the underlying zoning district. If a new lot is created for each of the existing dwellings, then the new lots and dwellings must adhere to the bulk requirements of the underlying zoning district.

7. **Height Regulations.** No principal building shall exceed 35 feet in height, unless a greater height is permitted for a special use.

8. **Bulk Regulations.** The following minimum requirements shall be observed for the R-1A Modified Single Family Residential District:

<table>
<thead>
<tr>
<th>Use</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Yard Setback</th>
<th>Side Yard Setback, Least Width on Any One Side</th>
<th>Sum of Both Side Yard Setbacks</th>
<th>Rear Yard Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dwelling</td>
<td>15,000 square feet</td>
<td>100 feet</td>
<td>40 feet</td>
<td>10 feet</td>
<td>22 feet</td>
<td>40 feet</td>
</tr>
<tr>
<td>Uses in § 5 of this section</td>
<td>80,000 square feet</td>
<td>175 feet</td>
<td>50 feet</td>
<td>50 feet</td>
<td>100 feet</td>
<td>50 feet</td>
</tr>
</tbody>
</table>

9. **Open Space and Landscaping Requirements.** See Section 166.32.

10. **Off-Street Parking and Loading.** See Section 166.33.

11. **Buffer Requirements.** See Section 166.34.

12. **Architectural Standards.** See Section 166.35.

13. **Sign Regulations.** See Chapter 170.

14. **Site Plan Requirements.** See Chapter 171.
168.03 CO (COMMERCIAL OFFICE) ZONING DISTRICT REGULATIONS. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the CO Commercial Office District.

1. Statement of Intent. The CO District is intended to serve both neighborhoods and the community with the development of professional, semi-professional, and public service buildings and office buildings.

2. Principal Permitted Uses. Only the use of structures or land listed in this section shall be permitted in the CO District.

A. Professional and semi-professional office buildings for the following:

- Abstract title
- Accountants and bookkeeping
- Actuaries
- Advertising (no shops)
- Adjusters (insurance)
- Aerial survey and photography
- Appraisers – no sale or rental of any type of merchandise or equipment
- Architects
- Attorneys
- Auditors
- Banks and finance (drive-in facilities permitted)
- Business analysts — counselors or brokers
- Building contractors, office only (no shops or storage)
- Chiropractors
- Chiropractors
- Consulates
- Counseling, child guidance and family service
- Court reporter and public stenographers
- Credit reporting
- Dentists
- Detective agencies and investigating services
- Drafting and plan services
- Engineers, professional
- Insurance and bonds
- Manufacturer’s agents
- Market research
- Medical doctors and practitioners
- Model agencies or schools
- Mortgage brokers
- Notary public
- Opticians
- Optometrists
- Public libraries
- Public relations
- Radio and television production and broadcast studios
- Real estate
- Real estate management
- Secretarial services
Shoppers’ information services
Social service bureaus
Stock broker exchanges, investment services
Tax consultants
Telephone answering services
Theater ticket agencies
Travel agencies
Zoning consultants

B. Hospitals, clinics, or group medical centers, including dental clinics, but not including animal clinics.

C. Day care center, day nursery or nursery school, licensed in the State of Iowa, provided no building, structure, or accessory use for property so used is located less than 25 feet from any other principal building on any other lot in an R District; and provided there is established and well maintained in connection therewith a completely fenced play lot of no fewer than 1,000 square feet in area for the first 20 or less children under care, with 25 square feet added to such play lot area for each additional designated child capacity of the principal building.

D. Public and parochial schools (elementary and secondary), colleges and universities.

E. Business training school.

F. Health and athletic fitness centers and clubs with all indoor facilities.

G. Church, chapel, temple, synagogue and similar place of worship, and associated residence of clergy or ordained official of the religious organizations.

H. Funeral homes and mortuaries.

I. Buildings and uses owned by a county, city or other political subdivision which are operated for the social benefit or convenience of the public, but excluding equipment storage yards and garages which are operated and maintained for the necessary business and industrial service of the community.

J. Museums and libraries not operated for profit.

K. Swimming, athletic, and tennis clubs or country clubs and similar public and privately owned uses with outdoor facilities.

L. Other uses that are consistent by type of use, use intensity, physical characteristics, style, size, and purpose with the uses listed above.

3. Permitted Accessory Uses. The following uses may exist as part of, or in accessory to, the principal permitted uses:

A. Retail establishments and refreshment stands accessory to principal buildings; provided, however, there shall be no access to such place of retail use except from the inside of the principal building, complex, or internal courtyard, nor shall any identification signage, display of stock, goods or advertising for such be so arranged that it can be viewed from outside the principal building.
B. Storage areas incidental to the principal use, but not to exceed a floor area which is equal to twenty-five percent (25%) of the floor area used by the principal use, and such storage shall be wholly contained within the principal building.

C. A detached structure not to exceed 120 square feet in floor area and 15 feet in height, located in the rear yard within the building setback lines and constructed of durable exterior materials common to the area (corrugated metal is excluded).

D. Detached Accessory Structures for Non-profit Institution Uses. Accessory structures shall adhere to the bulk requirements for the underlying district. However, a detached accessory structure used exclusively for storage purposes shall be located in the rear yard. The cumulative total gross floor area of any detached accessory structures shall not exceed 2400 square feet of gross floor area or 25% of the gross floor area of the principal structure, whichever is less. Nothing herein is intended to allow additional storage area than permitted in the underlying district.

(Ord. 837 – Mar. 11 Supp.)

4. (Repealed by Ord. 837 – Mar. 11 Supp.)

5. Height Regulations. No principal building shall exceed 50 feet in height. No accessory structure shall exceed 15 feet in height, unless a greater height is permitted for a special use.

6. Bulk Regulations. The following minimum bulk requirements shall be observed in the CO Commercial Office District:

<table>
<thead>
<tr>
<th>Use</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Yard Setback</th>
<th>Side Yard Setback, Least Width on Any One Side</th>
<th>Sum of Both Side Yard Setbacks</th>
<th>Rear Yard Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>All uses</td>
<td>20,000 square feet</td>
<td>100 feet</td>
<td>30 feet</td>
<td>10 feet</td>
<td>20 feet</td>
<td>35 feet</td>
</tr>
</tbody>
</table>

7. Open Space and Landscaping Requirements. See Section 166.32.

8. Off-Street Parking and Loading. See Section 166.33.

9. Buffer Requirements. See Section 166.34.

10. Architectural Standards. See Section 166.35.


12. Site Plan Requirements. See Chapter 171.
168.04 C-1 (NEIGHBORHOOD COMMERCIAL) ZONING DISTRICT REGULATIONS. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the C-1 Neighborhood Commercial District.

1. Statement of Intent. The C-1 District is intended to provide commercial and retail uses to serve the most immediate shopping needs of the nearby residents and employment within a neighborhood with a trade area radius of approximately one mile depending on the density of the residential and employment population of the neighborhood.

2. Principal Permitted Uses. Only the use of structures or land listed in this section shall be permitted in the C-1 District.

   A. Any principal permitted use in the CO Zoning District, provided such use shall comply with the minimum requirements of the C-1 Zoning District.

   B. The following neighborhood retail commercial and service establishments and uses:

      Antique stores, but not including refinishing or refurbishing
      Apparel (specialty) shops
      Artists’ and architectural supply
      Automobile parts store; excluding parts installation and repair
      Bakeries (retail), including baking and selling
      Banks, savings and loans and other financial institutions with drive-in facilities permitted.
      Beauty shops and barber shops, but not including schools
      Book stores and stationery stores
      Camera and photographic supply stores, including photo finishing services for the general public
      Candy, nut, and confectionery stores
      Clothing and accessory stores, including storage and repair of fur garments but not including trading in furs
      Coffee shops
      Coin operated laundries and dry cleaning establishment using nonflammable solvents
      Commercial art galleries
      Computers, typewriters, copiers and similar office equipment retail sales and service.
      Dairy product and ice cream stores and parlors; retail over-the counter sales only
      Drug stores
      Electrical repair shops
      Florists, including potted house plants
      Formal wear and costume rental
      Fruit stores and vegetable markets, provided that no outdoor or open-air display, sales or storage shall be permitted, except by special use permit
      Gift, novelty, and souvenir shops
      Grocery and food stores
      Hardware stores
      Hobby, toy and game shops
Home accessories, such as glassware and linens
Interior decorations, including retail sales of draperies and curtains.
Jewelry stores
Liquor stores
Lounges, when in conjunction with a restaurant
Luggage and leather goods
Meat and seafood markets
Music or dance schools or studios, including children’s or amateur
    instruction and exercise classes, but not including
    professional dance schools, ballrooms, or dance halls
News dealers and newsstands
Office furniture, and supplies, retail sales only
Optical goods and hearing aids
Pet shops, but not including boarding or outdoor kennels
Postal service (local substation of United States) or private parcel post
delivery service
Radio, television and music stores, including home video equipment
    and movie rentals
Religious goods
Restaurants and cafes, provided there is no drive-in facility
Retail coin, philatelist and autograph shops
Sewing, needlework and piece goods stores
Shoe repair shop, shoe shining
Tobacco stores
Toy stores
Tailor shops, including clothing alteration and repair shops
Veterinarian clinics for household pets on an out-patient basis only,
    no overnight boarding or lodging except by special use permit
Watch, clock and jewelry repair

C. Other uses that are consistent by type of use, use intensity, physical
    characteristics, style, size, and purpose with the uses listed above.

3. Permitted Accessory Uses. The following uses may exist as part of, or in
    accessory to the principal permitted uses:

   A. Any accessory use permitted in the CO Zoning District providing
      such use shall comply with the minimum requirements of the C-1 Zoning
      District.

   B. The display of merchandise outside the building may be permitted
      when specifically approved by the City Council.

4. Special Uses. The following uses may be permitted in the C-1 Neighborhood
    Commercial District subject to approval of a special use permit by the Board of
    Adjustment in accordance with Chapter 172, after notice and public hearing.

   A. Convenience store; with fuel sales and no vehicle washing or repair
      on site, provided that the site plan application contain a traffic analysis which
      addresses the relationship of the facility to public street traffic and a visual
      analysis which addresses the view from the street and from abutting property,
      and recommendations of how any adverse impact will be mitigated.

   B. Outdoor seating, when in association with a restaurant or cafe.
5. Height Regulations. No principal building shall exceed 50 feet in height. No accessory structure shall exceed 15 feet in height, unless a greater height is permitted for a special use.

6. Bulk Regulations. The following minimum bulk requirements shall be observed in the C-1 Neighborhood Commercial District:

<table>
<thead>
<tr>
<th>Use</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Yard Setback</th>
<th>Side Yard Setback, Least Width on Any One Side</th>
<th>Sum of Both Side Yard Setbacks</th>
<th>Rear Yard Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>All uses</td>
<td>20,000 square feet</td>
<td>100 feet</td>
<td>30 feet</td>
<td>10 feet (A)</td>
<td>20 feet (A)</td>
<td>35 feet</td>
</tr>
</tbody>
</table>

A. If a building is planned to be attached or closely located to adjacent buildings in the same complex and part of a shopping center, the side, or sides, which are to be attached or closely located to the adjacent building shall be permitted to have a zero side yard setback, if construction complies with building and fire codes.

B. Outside restaurant seating and outside display areas shall not occupy any portion of required yard areas or open space, unless specifically approved as part of the site plan review after consideration of the visual effects upon persons on abutting property or public right-of-way.

7. Open Space and Landscaping Requirements. See Section 166.32.

8. Off-Street Parking and Loading. See Section 166.33.

9. Buffer Requirements. See Section 166.34.

10. Architectural Standards. See Section 166.35.


12. Site Plan Requirements. See Chapter 171.
[The next page is 1117]
168.05 C-2 (COMMUNITY RETAIL COMMERCIAL) ZONING DISTRICT REGULATIONS. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the C-2 Community Retail Commercial District.

1. Statement of Intent. The C-2 District is intended to provide a wide range of commercial and retail uses and services for residents of the community and outside the community, and has performance standards that encourage quality of building design, site design and construction aesthetically compatible with the desired character of the area.

2. Principal Permitted Uses. The use of structures or land listed in this section shall be permitted in the C-2 District.

   A. Any principal permitted use in the C-1 Zoning District, provided such use shall comply with the minimum requirements of the C-2 Zoning District.

   B. The following retail commercial and service establishments and uses:

      Artist studios and gift and craft stores with fabrication on the premises; all production shall be limited to no more than 50% of the floor area of the principal building. Activities shall be confined inside the principal building. Only products sold on the premises can be fabricated.

      Bars, provided at the time of issuance of a certificate of zoning compliance or certificate of occupancy that they are located 300 feet or more from sensitive uses composed of a park, a church or place of worship, a school, or a day care center. The distance measurement shall be taken on a direct line from the footprint of the establishment, building or leased space to the nearest property line of the sensitive use parcel. After the inception of the use, the use shall not become nonconforming unless the use is discontinued or abandoned for more than six months.

      Billiard parlors and pool halls
      Bowling alleys
      Convenience store; no vehicle washing or repair on site
      Dance halls and ball rooms
      Department stores
      Floor covering stores, primarily engaged in retail sales and incidental installation, but not including establishments primarily engaged in installing or supplying building contractors.
      Hot tub, sauna, or swimming pool sales, provided that no outdoor or open-air display, sales or storage shall be permitted, except by special use permit.
      Hotels and motels
      Household appliance stores
      Household furniture, retail sales but not including cabinets
      Household improvement products stores, e.g.: paint, glass and wallpaper stores, retail sales to the general public only
      Ice and roller skating rinks, indoor only
      Restaurants, drive-in facilities permitted
      Sporting goods stores and bicycle shops, but not including sales of motorized vehicles
Technical training facilities and class rooms when in combination with a principal permitted use.
Theaters, does not include drive-in theaters.

C. Other uses that are consistent by type of use, use intensity, physical characteristics, style, size, and purpose with the uses listed above.

D. Activities within the principal building shall not create an excessive amount of vibration or noise, dust or other particulate matter, fumes, smoke, gas, heat or light, or other objectionable emissions that may be detrimental or noxious to neighboring uses. No outdoor open air display or storage shall be permitted except by special use permit.

3. Permitted Accessory Uses. The following uses may exist as part of, or in accessory to the principal permitted or special uses:

   A. Any accessory use permitted in the C-1 Zoning District providing such use shall comply with the minimum requirements of the C-2 Zoning District.

   B. Technical training facilities and classrooms when in combination with a principal permitted use.

4. Special Uses. The following uses may be permitted in the C-2 Community Commercial District subject to approval of a special use permit by the Board of Adjustment in accordance with Chapter 172, after notice and public hearing.

   A. Rescue missions and shelters.

   B. The following establishments of enterprises involving large assemblages of people or automobiles:

       (1) Temporary or seasonal amusement enterprises, including carnivals and circuses.

       (2) Commercial sport or recreational enterprises, including nonprofit amphitheaters, convention halls and auditoriums.

   C. Bars, if not a principal permitted use.

5. Height Regulations. No principal building shall exceed 50 feet in height at the required front, side and rear yard building lines, except one foot may be added to the building height for each additional one foot that the building or portion thereof is set back from the minimum required set backs. However, no building shall exceed a height of 125 feet. No accessory structure shall exceed 15 feet in height, unless a greater height is permitted for a special use.

6. Bulk Regulations. The following minimum bulk requirements shall be observed in the C-2 Community Retail Commercial District:

<table>
<thead>
<tr>
<th>Use</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Yard Setback</th>
<th>Side Yard Setback, Least Width on Any One Side</th>
<th>Sum of Both Side Yard Setbacks</th>
<th>Rear Yard Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>All uses</td>
<td>20,000 square feet</td>
<td>100 feet</td>
<td>30 feet</td>
<td>10 feet (A)</td>
<td>20 feet (B)</td>
<td>35 feet</td>
</tr>
</tbody>
</table>
A. If a building is planned to be attached or closely located to adjacent buildings and part of a shopping center, the side, or sides, which are to be attached or closely located to the adjacent building shall be permitted to have a zero side yard setback, if construction complies with building and fire codes.

B. Multiple occupancy of a lot by more than one principal building is permitted, if the site is developed as a complex and the approved site plan demonstrates that buildings are compatible in architectural design and use of exterior materials; organized in close physical proximity, utilizing a centralized open space, and provided parking areas are not located between buildings within the complex.

7. Open Space and Landscaping Requirements. See Section 166.32.
8. Off-Street Parking and Loading. See Section 166.33.
9. Buffer Requirements. See Section 166.34.
10. Architectural Standards. See Section 166.35.
12. Site Plan Requirements. See Chapter 171.
[The next page is 1127]
CHAPTER 168  ZONING DISTRICT REGULATIONS

168.06 C-3 (HIGHWAY SERVICE COMMERCIAL) ZONING DISTRICT REGULATIONS. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the C-3 Highway Service Commercial District.

1. Statement of Intent. The C-3 District is designed to provide for a wide range of highway service commercial uses, including highway and other retail uses not permitted in other C Districts in the City. It is intended that this district be located along major streets and not close to residential areas.

2. Principal Permitted Uses. Only the use of structures or land listed in this section shall be permitted in the C-3 District.

A. Any principal permitted use in the C-2 Zoning District, provided such use shall comply with the minimum requirements of the C-3 Zoning District.

B. The following retail, commercial, and service establishments and uses:

   Adult entertainment business; no adult entertainment business shall be established or operated within 1,000 feet of any other such business; of any school, church, residence, park or public building on the same street; or of any property in an R or CD District. Said distance may be reduced upon finding by the Board of Adjustment that such reduction will not be contrary to the public interest or injurious to nearby properties. Such distance shall be measured on a straight line from the nearest vehicular or doorway entry into such business to the nearest point on the property of any other adult business; of any school, church, residence, park or public building on the same street; or of any property in an R or CD District. All doorway entries, windows, or other openings shall be so located or screened as to prevent view into the interior of such building from any street or other public area.

   Automobile, trailer, motorcycle, boat, and farm implement establishments for display, hire, rental, and sales (including sales lots); including repair work accessory to this principal use.

   Carpenter and cabinetmaking shops

   Car washes, including self-service

   Gas stations or service stations

   Lumber yards, retail only

   Monument sales yards

   Public auction buildings or rooms (does not include animal, vehicle auctions)

   Mini-warehouse

   Truck stops, including minor repairs as accessory use

   Small repair shops, including but not limited to bicycle, motorcycle, lawn mower, and garden tractor repair. All activities must be confined inside the repair buildings, including storage of parts and machines

   Amusement parks, and outdoor stadiums and arenas

C. Other uses that are consistent by type of use, use intensity, physical characteristics, style, size, and purpose with the uses listed above.
3. Permitted Accessory Uses. The following uses may exist as part of, or in accessory to the principal permitted or special uses:
   
   A. Any accessory use permitted in the C-2 Zoning District providing such use shall comply with the minimum requirements of the C-3 Zoning District.

4. Height Regulations. No principal building shall exceed 50 feet in height, at the required front, side and rear yard building lines, except one foot may be added to the building height for each additional one foot that the building or portion thereof is set back from the minimum required set backs, provided, however, that in no instance shall the building exceed a height of 125 feet. No accessory structure shall exceed 15 feet in height, unless a greater height is permitted for a special use.

5. Bulk Regulations. The following minimum bulk requirements shall be observed in the C-3 General Commercial District:

<table>
<thead>
<tr>
<th>Use</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Yard Setback</th>
<th>Side Yard Setback, Least Width on Any One Side</th>
<th>Sum of Both Side Yard Setbacks</th>
<th>Rear Yard Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>All uses</td>
<td>20,000 square feet</td>
<td>100 feet</td>
<td>30 feet</td>
<td>10 feet (A)</td>
<td>20 feet (A)</td>
<td>35 feet</td>
</tr>
</tbody>
</table>

   A. If a building is planned to be attached or closely located to an adjacent building and part of a shopping center, the side which is attached or located closely to the adjacent building shall be permitted to have a zero side yard setback if the building and fire codes are complied with. One side yard of a minimum of 10 feet shall be maintained unless specifically waived as part of the site plan review and provided adequate access for fire protection is provided.

6. Open Space and Landscaping Requirements. See Section 166.32.

7. Off-Street Parking and Loading. See Section 166.33.

8. Buffer Requirements. See Section 166.34.

9. Architectural Standards. See Section 166.35.


11. Site Plan Requirements. See Chapter 171.

[The next page is 1137]
168.07 PC (PROFESSIONAL COMMERCE PARK) ZONING DISTRICT REGULATIONS. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the PC Professional Commerce Park District.

1. Statement of Intent. The PC District is intended to be an area for accommodating the management, research, design, marketing and production needs of those professional-commerce enterprises which comply with the performance standards of this section, and are in the interest of general community welfare, which recognizes that the community should be beautiful, as well as financially prosperous, spacious, and efficient. Within the PC District it shall be emphasized that the manner in which a use is accomplished is as important as the use; detracting, detrimental, or other generally unacceptable characteristics, including ugliness of physical properties, shall be discouraged, and contemporary, modern and futuristic design techniques which yield visual attractiveness encouraged.

2. Principal Permitted Uses. Only the use of structures or land listed in this section shall be permitted in the PC District. Any enterprise, regardless of professional-commerce category which cannot wholly enclose its functions within the principal structures or otherwise effectively conceal its functions from public observation shall be prohibited.

A. Office buildings and associated uses as listed in the CO Zoning District, Section 168.03.

B. Day care center, day nursery or nursery school, licensed by the State of Iowa, and subject to standards for the same use permitted in the CO District.

C. Health, athletic or fitness centers or clubs, with all indoor facilities, or outdoor facilities concealed from general public view.

D. Other uses that are consistent by type of use, use intensity, physical characteristics, style, size, and purpose with the uses listed above.

3. Permitted Accessory Uses. The following uses may exist as part of, or in accessory to the principal permitted or special uses. Any accessory facility or use shall be physically accomplished in an aesthetically compatible manner and shall comply with all restrictions or performance standards applicable to the principal use.

A. Retail establishments, refreshment stands and employee cafeterias accessory to principal buildings; provided, however, there shall be no access to such place of retail use except from the inside of the principal building, complex, or internal courtyard, nor shall any display of stock, goods or advertising for such be so arranged that it can be viewed from outside the principal building.

B. Storage or warehousing area incidental to the principal use, but not to exceed a floor area which is equal to fifty percent (50%) of the floor area used by the principal use, and such storage shall be wholly contained within the principal building, and loading areas are screened or concealed from general public view.

4. Special Uses. The following uses may be permitted in the PC District subject to approval of a special use permit by the Board of Adjustment in accordance with Chapter 172, after notice and public hearing. All special uses shall be accomplished
in a manner compatible with performance standards required of principal permitted uses.

A. Hospitals
B. Private dining clubs, which are operated for the use and benefit of its members
C. Branch facilities of colleges, and schools which specialize in business, commercial and technical training courses
D. Caretaker dwelling incidental to the principal use and planned as an integral, subsidiary element of the principal use

5. Height Regulations. There shall be no height regulations in the PC Zoning District, except that no building or structure shall be constructed to a height which may create an air traffic hazard to the approach or departure of an existing airport.

6. Bulk Regulations. The following minimum bulk requirements shall be observed in the PC District:

<table>
<thead>
<tr>
<th>Use</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Yard Setback</th>
<th>Side Yard Setback, Least Width on Any One Side</th>
<th>Sum of Both Side Yard Setbacks</th>
<th>Rear Yard Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>All uses</td>
<td>40,000 square feet</td>
<td>200 feet</td>
<td>50 feet (A)</td>
<td>20 feet</td>
<td>40 feet (B)</td>
<td>50 feet</td>
</tr>
</tbody>
</table>

A. The front yard setback may be reduced to a minimum of 25 feet, provided that the total of the front and rear yards equals 100 feet.
B. Multiple occupancy of a lot by more than one principal building is permitted, if the site is developed as a complex and the approved site plan demonstrates that buildings are compatible in architectural design and use of exterior materials; organized in close physical proximity, utilizing a centralized open space, and provided parking areas are not located between buildings within the complex.

7. Open Space and Landscaping Requirements. See Section 166.32.
8. Off-Street Parking and Loading. See Section 166.33.
9. Buffer Requirements. See Section 166.34.
10. Architectural Standards. See Section 166.35.
12. Site Plan Requirements. See Chapter 171.

[The next page is 1143]
168.08 IC (INDUSTRIAL COMMERCE PARK) ZONING DISTRICT
REGULATIONS. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the IC Industrial Commerce Park District.

1. Statement of Intent. The IC District is intended to provide for the location of limited industrial uses while maintaining strict performance standards encouraging quality construction and site development for the protection of nearby non-industrial districts. The IC District shall be characterized by large lots with landscaped grounds and buildings constructed with materials of structural strength and permanency such as architectural steel, stone, concrete, and brick, versus wood and sheet metal.

2. Principal Permitted Uses. Only the uses of structures or land listed in this section shall be permitted in the IC District; provided, however that all manufacturing, assembling, compounding, processing, packaging, and other comparable treatment, including storage of any and all materials and equipment, shall take place within completely enclosed buildings.

   A. Any principal use permitted in the PC Zoning District, provided such use shall comply with the minimum requirements of the IC Zoning District.
   B. Commercial trade schools and business colleges, which specialize in business, commercial and industrial training courses, and are operated for commercial gain.
   C. Compounding and packaging of drugs, pharmaceutical, cosmetics, perfumes, and toiletries.
   D. Distribution centers for finished or prepackaged products.
   E. Laboratories; research, experimental, and testing uses.
   F. Manufacturing, assembling, and packaging of medical instruments, cameras, drafting instruments, and electrical components.
   G. Printing, lithographing, or film processing shops or plants.
   H. Warehouses for storage of merchandise or materials in connection with the uses permitted in this district only.
   I. Enterprises involving large assembly of people or automobiles, such as commercial sport or recreational enterprises, including nonprofit amphitheaters, convention halls and auditoriums.
   J. Other uses that are consistent by type of use, use intensity, physical characteristics, style, size, and purpose with the uses listed above.

3. Permitted Accessory Uses. The following uses may exist as part of, or in accessory to the principal permitted or special uses. Any accessory building structure or use shall be physically accomplished in an aesthetically compatible manner and shall comply with all restrictions or performance standards applicable to the principal use.

   A. Any accessory uses permitted in the PC Zoning District, provided, such use shall comply with minimum requirements of the IC Zoning District.
   B. Accessory shelter for a watchman, caretaker, or gate guard, and not a dwelling.
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C. A detached structure not to exceed 120 square feet in floor area and 15 feet in height, located in the rear yard and within the building setback lines on a concrete slab or footings, and constructed of durable exterior materials common to the area (corrugated metal is excluded).

4. Height Regulations. No principal building shall exceed 50 feet in height. No accessory structure shall exceed 20 feet in height, unless a greater height is permitted for a special use.

5. Bulk Regulations. The following minimum bulk requirements shall be observed in the IC Industrial Commerce Park District:

<table>
<thead>
<tr>
<th>Use</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Yard Setback</th>
<th>Side Yard Setback, Least Width on Any One Side</th>
<th>Sum of Both Side Yard Setbacks</th>
<th>Rear Yard Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>All uses</td>
<td>40,000 square feet</td>
<td>200 feet</td>
<td>50 feet (A)</td>
<td>20 feet</td>
<td>40 feet (B)</td>
<td>35 feet</td>
</tr>
</tbody>
</table>

A. The front yard setback may be reduced to a minimum of 25 feet, provided that the total of the front and rear yards equals 100 feet.

B. Multiple occupancy of a lot by more than one principal building is permitted, if the site is developed as a complex and the approved site plan demonstrates that buildings are compatible in architectural design and use of exterior materials; organized in close physical proximity, utilizing a centralized open space, and provided parking areas are not located between buildings within the complex.

6. Open Space and Landscaping Requirements. See Section 166.32.

7. Off-Street Parking and Loading. See Section 166.33.

8. Buffer Requirements. See Section 166.34.

9. Architectural Standards. See Section 166.35.


11. Site Plan Requirements. See Chapter 171.

[The next page is 1151]
168.09 M-1 (LIGHT INDUSTRIAL) ZONING DISTRICT REGULATIONS. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the M-1 Light Industrial District.

1. Statement of Intent. The M-1 District is intended to provide areas of the City suitable for activities and uses of a light industrial nature.

2. Principal Permitted Uses. The use of buildings, structures, or land listed in this section shall be permitted in the M-1 District; provided, however, all manufacturing, assembling, compounding, processing, packaging, and other comparable treatment, shall take place within completely enclosed buildings. Outside storage will be allowed, provided such storage areas are screened from public streets and adjacent property and not cover more than thirty percent (30%) of the lot area.

A. Any use permitted in the IC Zoning District, provided such use shall comply with the minimum requirements of the M-1 District.

B. Animal hospitals.

C. Assembly of small electrical appliances, photographic equipment, small industrial and electronic instruments and devices, radios, phonographs, and television sets, including the manufacture of small accessory parts only, such as coils, condensers, transformers, crystal holders, and similar products.

D. Auction rooms or buildings (does not include animal or vehicle auction buildings or rooms).

E. Automobile accessory stores, including the installation and servicing of automobiles accessory to this principal use.

F. Automobile, trailer, motorcycle, boat, and farm implement establishments for display, hire, rental, and sales (including sales lots); including repair work accessory to the permitted use.

G. Buildings and uses owned by a state, county, city or other political subdivision, including equipment storage yards and garages which are operated as a necessary business and industrial service of the community.

H. Bicycle shops.

I. Building materials sales (does not include lumber yards).

J. Manufacturing, assembling, compounding, processing, packaging, or other comparable treatment of the following:

   (1) Bakery foods, candy, and food products except the following:
       Cereals
       Dairies
       Fish and meat processing
       Flour
       Rendering or refining of fats and oils
       Sauerkraut
       Stock feed
       Vinegar
       Yeast

   (2) Cameras and other photographic equipment.
(3) Electric and neon signs, outdoor advertising signs.
(4) Medical, dental, and drafting instruments.
(5) Musical instruments, toys, novelties, and rubber and metal hand stamps.
(6) Pottery and other ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
(7) Products from the following previously prepared materials; bone, canvas, cellophane, cloth, cork, rope, cord, twine, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, cardboard, plastics, natural and synthetic rubber, precious or semi-precious metals or stones, shells, textiles, tobacco, wax, wood, yarns, light metal mesh, pipe, rods, stripes, or wire.
(8) Small precision instruments, such as barometers, clocks, watches, and compasses.

K. Carpenter and cabinetmaking shops.
L. Car wash, including self service.
M. Enameling, lacquering, or japanning.
N. Furniture stores.
O. Household appliance stores - sales and service.
P. Locker plants (for storage and retail sales only).
Q. Monument sales yards (not manufacturing or construction).
R. Plumbing and heating shops and service businesses.
S. Public or private recreational facilities including sales and service buildings.
T. Rug and carpet cleaning and exterminators, provided necessary equipment is installed and operated for the effective precipitation or recovery of dust.
U. Schools which specialize in industrial and technical training courses, either public or operated for commercial gain.
V. Service stations or gas stations.
W. Small repair shop, including but not limited to bicycle, motorcycle, lawn mower, and garden tractor repair.
X. Vehicle auction establishments.
Y. Vehicle impoundment yards and equipment.
Z. Wholesale storage and warehouse establishments.
AA. Truck stops, including minor repairs and accessory uses.
BB. Other uses that are consistent by type of use, use intensity, physical characteristics, style, size, and purpose with the uses listed above.
3. Permitted Accessory Uses. The following uses may exist as part of, or in
cessory to the principal permitted or special uses.

   A. Any accessory uses permitted in the IC Zoning District, provided,
such use shall comply with minimum requirements of the M-1 Zoning
District.

   B. Accessory shelters for a watchman, caretaker, or gate guard.

4. Height Regulations. No principal building shall exceed 50 feet in height. No
accessory structure shall exceed 20 feet in height, unless a greater height is permitted
for a special use.

5. Bulk Regulations. The following minimum bulk requirements shall be
observed in the M-1 Light Industrial District:

<table>
<thead>
<tr>
<th>Use</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Yard Setback</th>
<th>Side Yard Setback, Least Width on Any One Side</th>
<th>Sum of Both Side Yard Setbacks</th>
<th>Rear Yard Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>All uses</td>
<td>20,000 square feet</td>
<td>100 feet</td>
<td>50 feet</td>
<td>10 feet (A)</td>
<td>20 feet</td>
<td>50 feet</td>
</tr>
</tbody>
</table>

   A. A thirty (30) foot side yard shall be maintained when abutting an R
District.

6. Open Space and Landscaping Requirements. See Section 166.32.

7. Off-Street Parking and Loading. See Section 166.33.

8. Buffer Requirements. See Section 166.34.

9. Architectural Standards. See Section 166.35.


11. Site Plan Requirements. See Chapter 171.
168.10 M-2 (GENERAL INDUSTRIAL) ZONING DISTRICT REGULATIONS. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the M-2 General Industrial District.

1. Statement of Intent. The M-2 District is intended to provide areas of the City suitable for activities and uses of a medium industrial nature, and heavy industrial nature subject to the issuance of a special use permit.

2. Principal Permitted Uses. The use of structures or land listed in this section shall be permitted in the M-2 District:
   A. Any use permitted in the M-1 Zoning District, provided such use shall comply with minimum requirements of the M-2 Zoning District.
   B. Carting, express, hauling, or storage yards.
   C. Concrete mixing, concrete products manufacture.
   D. Dairies and food processing plants except the following:
      Cereals
      Fish and meat processing
      Flour
      Rendering or refining of fats and oils
      Sauerkraut
      Stock feed processing
      Vinegar
      Yeast
   E. Gasoline, fuel oil, or their derivatives, underground storage only, not to exceed 40,000 gallons, provided storage is located at least 200 feet from any R district
   F. Garages for truck, automobile, and farm equipment repairs
   G. Lumber yards
   H. Machine shops
   I. Manufacture of wood products not involving chemical treatment
   J. Storage and sale of livestock feed, provided dust is effectively controlled (this does not include agricultural elevators).
   K. Welding and metal working shops
   L. Other uses that are consistent by type of use, use intensity, physical characteristics, style, size, and purpose with the uses listed above

3. Permitted Accessory Uses. The following uses may exist as part of, or in accessory to the principal permitted or special uses.
   A. Any accessory uses permitted in the M-1 Zoning District, provided, such use shall comply with minimum requirements of the M-2 Zoning District.

4. Special Uses. The following heavy industrial uses may be permitted in the M-2 General Industrial District in areas compatible with the Comprehensive Plan and
subject to approval of a special use permit by the Board of Adjustment in accordance with Chapter 172, after notice and public hearing.

A. Slaughter houses and/or stock yards
B. Acid manufacture or wholesale storage of acids
C. Anhydrous ammonia storage and/or pumping facilities
D. Automobile, tractor, or machinery wrecking and used parts yards; provided that any wrecking operation is carried on within a building completely enclosed with walls and a roof and the yard completely enclosed with a wall or fence, reasonably maintained, at least six feet completely obscuring the activity. There shall be only one opening in the wall or fence facing any public street for each 200 feet of length.
E. Cement, lime, gypsum, or plaster of paris manufacture
F. Distillation of bones
G. Explosive manufacture or storage
H. Gas manufacture and cylinder recharging
I. Glue, size, or gelatin manufacture
J. Junk, iron, or rags; storage or baling; and waste paper yards, where the premises upon which such activities are conducted are wholly enclosed within a building, wall, or fence not less than six feet in height, completely obscuring the activity.
K. Petroleum or its products, refining, or wholesale storage of, and asphalt plants
L. Rubber goods manufacture
M. Sand or gravel pits
N. Smelting of tin, copper, zinc, or iron ores
O. Transmitting stations
P. Wholesale storage of gasoline and other flammable liquids
Q. Other uses that are consistent by type of use, use intensity, physical characteristics, style, size, and purpose with the uses listed above.

5. Special Use Permit Considerations. In its deliberation on the proposed special use, the Board and Planning and Zoning Commission shall consider all of the following provisions:

A. The proposed location, design, construction, and operation of the particular use adequately safeguards the health, safety, and general welfare of persons residing or working in adjoining or surrounding property. To this end the Board may require that appropriate landscaping, walls, fences, or other artificial screens be provided as buffers to minimize the effects of these uses on adjoining or surrounding property.

B. Such use shall not impair an adequate supply of light and air to surrounding property.
C. Such use shall not unduly increase congestion in the streets, or public danger of fire and safety.

D. Such use shall not impair the City utility systems in adjoining or surrounding property; and in such a manner that the City could not adequately serve existing and planned development.

E. The best practical means known for the disposal of refuse matter or water carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance, and protection of air and water quality shall be employed.

F. All heavy industrial uses and structures permitted by special use permit in the M-2 Zoning District shall be located more than 200 feet from any R District and within areas designated for Heavy Industrial use within the Comprehensive Plan.

G. Such use shall be in accord with the intent, purpose and spirit of this ordinance and the Comprehensive Plan of the City.

6. Height Regulations. There shall be no height regulations in the M-2 Zoning District, except that no building or structure shall be constructed to a height which may create an air traffic hazard to the approach or departure of an existing airport.

7. Bulk Regulations. The following minimum bulk requirements shall be observed in the M-2 General Industrial District:

<table>
<thead>
<tr>
<th>Use</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Yard setback</th>
<th>Side Yard Setback, Least Width on Any One Side</th>
<th>Sum of Both Side Yard Setbacks</th>
<th>Rear Yard Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>All uses</td>
<td>20,000 square feet</td>
<td>100 feet</td>
<td>50 feet</td>
<td>10 feet (A)</td>
<td>20 feet</td>
<td>50 feet</td>
</tr>
</tbody>
</table>

A. A thirty (30) foot side yard shall be maintained when abutting an R District or public park.

8. Open Space and Landscaping Requirements. See Section 166.32.


10. Buffer Requirements. See Section 166.34.

11. Architectural Standards. See Section 166.35.


13. Site Plan Requirements. See Chapter 171.
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168.11 PUD (PLANNED UNIT DEVELOPMENT) ZONING DISTRICT REGULATIONS. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the PUD Planned Unit Development District.

1. Statement of Intent. The PUD District is intended to provide for the development or redevelopment of land under the control and in accordance with a Master Plan and development guidelines and standards in which the land uses, transportation elements, building densities, arrangements, and types are set out in a unified plan, which may provide greater flexibility of land use, transfer of development rights within the PUD, and building locations than the conventional zoning district may permit. The PUD District is intended to maximize benefits from the use of open spaces, maximize aesthetics, encourage certain architectural standards for buildings, and permit mixed uses and diversity of bulk regulations without endangering the health, safety, welfare, and land value of surrounding and internal properties. A PUD may consist of a mix of land uses of residential, commercial, and limited industrial, provided such Planned Unit Development is compatible with the Comprehensive Plan of the City.

2. Minimum Size, Land Use, and Density. A PUD District shall consist of at least five acres, the land uses shall be permitted in accordance with the Comprehensive Plan of the City, and the density of the PUD shall not be in excess of the density permitted by the Comprehensive Plan.

3. Master Plan. As part of a proposed PUD rezoning of land in Johnston, a Master Plan shall be prepared and 15 copies submitted to the City which shows the generalized overall land use plan for development. The Master Plan is also recognized as a preliminary plat as identified in Chapter 180. The Master Plan shall include the following information:

A. A vicinity map of sufficient scale to show site boundaries and the zoning of adjacent properties within 1,000 feet.

B. Dimensions, legal descriptions, acreage, existing zoning, land use, and ownership of the area of the proposed PUD; and existing zoning, land use, and ownership of contiguous properties within 250 feet. The Master Plan shall be submitted on paper sheets of 24 inches by 36 inches.

C. Delineation of each “parcel” proposed with their land uses and bulk regulations identified.

D. Existing and proposed locations of streets, pedestrian ways, trails, parks, recreation areas, open space, buffers, parking areas, schools, and anticipated traffic generation.

E. Proposed lot locations for all uses, and conceptual building locations and functions for all multiple-family residential and non-residential uses.

F. Area and number of dwelling units, and anticipated floor area of non-residential buildings by “parcel.”

G. Existing tree masses, water channels, drainage ways, flood hazard areas, and other topographic or environmentally important characteristics.

H. Proposed privately owned common areas and public ownership areas, including open space, park land, and school sites.
I. Locations of existing or proposed municipal utilities to serve the PUD and adjoining properties, including sanitary sewer, storm sewer and water.

J. In addition to storm sewer facilities, other required storm water management facilities and requirements shall be shown and/or explained on the Master Plan.

K. Dimensions of all street right-of-way and paving widths, including all proposed easements.

L. Staging schedule of development, including anticipated year each stage of development is to be implemented.

M. Landscape areas proposed as part of PUD, to include location of shrubs, trees and earth berms.

N. Delineation of the traffic impacts that would result from the project and how they can be mitigated.

4. Rules, Regulations, and Guidelines for Land Use and Performance. In conjunction with the submittal of a Master Plan illustrating the location of each development “parcel”, there shall be prepared rules, regulations and guidelines for the development of the PUD, and such matters shall be part of the consideration by the Planning and Zoning Commission and the City Council and incorporated within the ordinance providing for the rezoning of the property to a PUD. The rules, regulations and guidelines shall set forth the permitted land use, bulk regulations, transfer of development rights within the area of the PUD, height requirements, open space and landscaping requirements, architectural standards, sign regulations, buffer requirements, off street parking and loading requirements, and other performance standards as required by the City for each parcel designated within the Master Plan. Any rules, regulations and guidelines set forth within the ordinance and Master Plan approved by the City Council providing for the rezoning shall be binding on the property owner, their heirs, successors or assigns, and shall be recorded at the Office of the Polk County Recorder.

5. Process for City Review of Planned Unit Development. The Zoning Administrator shall review the submitted PUD proposal, may discuss any suggestions or provide additional information to the Developer, and shall file a report together with the applicant’s proposal to the Planning and Zoning Commission.

A. The Planning and Zoning Commission, after receipt of the report from the Zoning Administrator, or other delegated City personnel, and receipt of the PUD proposal, shall consider the presentation and give special attention to the following:

(1) Compatibility with Comprehensive Plan
(2) Land use and density
(3) Building types, functions, architecture, buffers and arrangement
(4) Provision and use of open space and landscaping
(5) Access to and from the site, and traffic circulation
(6) General relationship to surrounding area
B. The Planning and Zoning Commission may approve or disapprove the PUD Master Plan and associated development rules, regulations and guidelines as submitted, or may require the developer to modify, alter, adjust or amend the proposed Master Plan and associated rules, regulations and guidelines, as the Planning and Zoning Commission deems necessary, in order to preserve the harmonious intent and purpose of this ordinance and the Comprehensive Plan of the City.

C. An application for approval of PUD shall be deemed a petition for rezoning to the PUD Zoning District, but prior to an affirmative report from the Planning and Zoning Commission the applicant shall file the necessary petition as prescribed in Amendments, Section 166.15.

D. Before any report is forwarded to the City Council by the Planning and Zoning Commission pertaining to an application submitted for a PUD, said Commission shall determine if such proposal is in compliance with the Comprehensive Plan or if such proposal represents a substantial change to the Comprehensive Plan. The Planning and Zoning Commission shall hold a public hearing, giving notice as provided by law for a rezoning.

E. After a complete review by the Planning and Zoning Commission, a written recommendation and report giving reasons as to their action shall be filed with the City Council.

F. Within a period of sixty (60) days after the City Council has received a report from the Planning and Zoning Commission, together with the proposed Master Plan, and rules, regulations, and guidelines of the PUD development, a public hearing shall be held by the City Council in accordance with the provisions of Section 166.15. The City Council shall then approve or deny the application, in accordance with Section 166.15.

6. Recording of Master Plan and Associated Rules, Regulations, and Guidelines. The ordinance providing for the rezoning of property to the PUD Zoning District and the associated Master Plan, Rules, Regulations, and Guidelines as approved by the City Council shall be recorded at the Office of the Polk County Recorder and shall be binding on the property owners, their heirs, successors or assigns.

7. Modifications. A modification of an approved PUD Master Plan shall occur through an amendment to this chapter and the Official Zoning Map unless the modification is considered to be a minor modification and may be approved in a manner as set forth by this chapter for approval of Site Plan Review. A minor modification must be in substantial conformance with the approved Master Plan and may never represent a change in allowable use. A minor modification may not increase the permitted density or intensity of the PUD Master Plan by more than a cumulative total of 5 percent (5%). A change in density or intensity is to be measured by comparing the square footage of buildings, the number of parking spaces, the number of vehicle trip ends generated by the uses proposed or such other indices as appropriate to evaluate the magnitude of change.
[The next page is 1181]
168.12 MUC (MIXED USE CENTER PLANNED DEVELOPMENT) ZONING DISTRICT REGULATIONS. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the MUC Mixed Use Center District.

1. Statement of Intent. The MUC District is intended to permit a mix of several land uses in close proximity to one another within the district. The MUC District is also intended to do the following:

   A. Enable the integration of residence, shops, services and workplace into one district.
   
   B. Permit the establishment of a higher-density activity center in the City.
   
   C. Enable establishment of a focal point in the City as a unique visual environment for persons in vehicles and for pedestrians.
   
   D. Create a safe environment for pedestrians.
   
   E. Encourage walking in and through the district.

2. Plan Required. A plan shall be submitted prior to any development. The plan is intended to assure continuity within the district. The plan prepared shall comply with the plan submittal requirements of Chapter 171 of this Code of Ordinances.

3. Principal Permitted Uses. The use of structures or land listed in this section shall be permitted in the MUC District.

   A. Uses permitted within the MUC-RO include any use permitted in District R-4 and C-O, except as provided for below:

      (1) The district may also contain limited C-1 and C-2 service-related destination uses that are considered to be compatible with the intent of the MUC-RO district. Included are coffee shops, beauty and barbershops, tailor and apparel alteration shops, repair of small appliances, jewelry and watches, pet supplies and veterinarian clinics, and other uses consistent with the uses listed above.

   B. Uses permitted within the MUC-ROC-1 include any principal permitted use and permitted accessory use in District R-4 and C-2.

   C. Uses permitted within the MUC-ROC-2 include any principal permitted use and permitted accessory use in District R-4 and C-2, except as provided for herein.

      (1) The following uses are prohibited:

         Restaurants with drive-up windows
         Convenience stores
         Billiard parlors and pool halls
         Bowling alleys

      (2) The following uses may be approved by the Board of Adjustment as a special use permit. The Board of Adjustment may determine whether these uses are appropriate based upon their compatibility with other uses inside and outside the MUC. Said special use permit approval need not be reviewed by the Planning and
Zoning Commission, which will review the site plan prior to City Council approval.

- Bars and night clubs
- Dance halls and ball rooms
- Hotels and motels
- Theaters
- Ice and roller skating rinks

(3) No drive-up windows, stacking lanes and parking aisles or parking spaces shall be located directly in front of a principal structure and between it and the right-of-way of Merle Hay Road. Paved areas may be located between Merle Hay Road and the principal structure if there is a minimum of 30 feet of landscaping adjacent to the Merle Hay Road right-of-way line. This provision excludes private approaches that are perpendicular to the public roadway.

4. Permitted Accessory Uses. The following uses may exist as part of, or accessory to the permitted or special uses:

   A. Storage areas incidental to the principal use, but not to exceed twenty-five percent (25%) of the total floor area used by the principal use, and such storage shall be wholly contained within the principal building.

   B. Display of merchandise outside the building may be permitted when specifically approved by the City Council through approval of the site plan.

   C. Convenience Store; with fuel sales and no vehicle washing or repair on site, provided that the site plan review adequately address traffic consideration, visual analysis, and mitigation of any adverse impacts.

   D. Outdoor Seating, when in association with a restaurant or café.

5. Height Regulations. No structure shall exceed 50 feet in height. No accessory building shall exceed 15 feet in height.

6. Bulk Regulations. The following minimum bulk requirements shall be observed in the MUC District:

<table>
<thead>
<tr>
<th>Use</th>
<th>Lot Area</th>
<th>Lot Width</th>
<th>Front Yard Setback</th>
<th>Side Yard Setback, Least Width on Any One Side</th>
<th>Sum of Both Side Yard Setbacks</th>
<th>Rear Yard Depth</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multiple Family*</td>
<td>80,000 square feet</td>
<td>200 feet</td>
<td>20 feet</td>
<td>25 feet</td>
<td>25 feet</td>
<td>50 feet</td>
</tr>
<tr>
<td>Office</td>
<td>20,000 square feet</td>
<td>100 feet</td>
<td>20 feet</td>
<td>10 feet</td>
<td>10 feet</td>
<td>35 feet</td>
</tr>
<tr>
<td>Day Care Center</td>
<td>20,000 square feet</td>
<td>50 feet</td>
<td>20 feet</td>
<td>15 feet</td>
<td>15 feet</td>
<td>50 feet</td>
</tr>
<tr>
<td>Retail and Service</td>
<td>20,000 square feet</td>
<td>100 feet</td>
<td>20 feet</td>
<td>10 feet</td>
<td>10 feet</td>
<td>35 feet</td>
</tr>
</tbody>
</table>

*Maximum density of 25 units per acre for multiple family uses.

A. It is the intent of this district to encourage landscaping between the building and the right-of-way line on Merle Hay Road when the minimum front yard setback is observed.
B. A zero side yard setback is permitted provided that it can be demonstrated that fire access and building code requirements are met. Fire access to the rear of the building must be maintained.

7. Open Space and Landscaping Requirements.
   A. Minimum tree requirements at the time of planting – two trees or one tree per 1,500 square feet of open space, whichever is greater:
   B. Minimum shrub requirements at the time of planting – six shrubs, or one shrub per 1,000 square feet of open space, whichever is greater.

8. Off-Street Parking and Loading. See Section 166.33, except as provided for herein.
   A. Paved parking areas and driveway aisles must be set back 15 feet from street right-of-way.
   B. To the maximum extent possible, parking lots shall not be located between the building and street frontage. Instead, the buildings shall be placed along the street frontage to frame the street and add to pedestrian ambiance, with parking lots placed to the rear or side of buildings.

   (Ord. 838 – Mar. 11 Supp.)

9. Buffer Requirements. A buffer shall be provided as required in Section 166.34 based upon the use designation of the Comprehensive Plan or the adjacent zoning classification.

10. Architectural Standards. The architectural standards of Section 166.35 shall be applicable to any development in the RO and ROC Districts, except as provided for below:
    A. Any structure facing Merle Hay Road with a wall area exceeding 70 feet in horizontal dimension shall be articulated to appear as though they are multiple buildings that have a common wall and/or contain front facades which utilize variations in color, horizontal planes, materials, patterns, height and other techniques to provide visual interest and scale to buildings.

    (Ord. 838 – Mar. 11 Supp.)
    B. A common wall along a side property line is encouraged to aid in building setback consistency and to create a massing effect of buildings.
    C. Use of glass windows on the façade of buildings is encouraged to enhance pedestrian interest and encourage walking in the District.

11. (Repealed by Ord. 838 – Mar. 11 Supp.)
168.13  **GF (GOVERNMENT FACILITY) ZONING DISTRICT REGULATIONS.** The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the GF, Government Facility District.

1. **Statement of Intent.** The GF District is intended to support and coordinate the continued development and expansion of major public facilities which are owned by the State of Iowa and the Government of the United States. This district recognizes that the City has no jurisdiction over land owned by these governmental entities.

2. **Principal Permitted Uses.** Any uses of buildings and structures on this land shall be permitted in the GF District.
[The next page is 1207]
CHAPTER 169

OVERLAY ZONING DISTRICT REGULATIONS

169.01 Overlay Zoning District Regulations
169.02 Flood Hazard Overlay Zoning District
169.03 Floodway Overlay Zoning District
169.04 Floodway Fringe Overlay Zoning District
169.05 General Flood Plain Overlay Zoning District
169.06 Merle Hay Road Corridor Overlay Zoning District
169.07 Animal Keeping Overlay Zoning District
169.08 Cluster Overlay Zoning District

169.01 OVERLAY ZONING DISTRICT REGULATIONS. In addition to the Zoning Districts listed and their associated regulations set forth in Chapter 168 of this zoning ordinance, additional regulations and requirements are imposed upon certain areas of the City in which the City desires to protect life and property from losses, hazards and related affects caused by the occupancy and use of flood hazard areas by buildings, structures, or activities which may increase the effects of flooding, and to facilitate the proper growth and development of the Merle Hay Road Corridor by recognizing its impact on the image of the City and that the manner in which a use is accomplished is as important as the use to enhance the visual appearance and image of the Merle Hay Road Corridor. The boundaries of the Overlay Zoning Districts are also indicated upon the Official Zoning Map of the City, which is made part of this ordinance by reference. If the regulations and restrictions for the Overlay Zoning Districts set forth in this chapter impose greater standards or more restrictive requirements than are required in any other chapter or section of this ordinance, or other local, State or Federal regulation, the regulations or requirements made under this chapter shall prevail and govern. In order to carry out the purpose and intent of this chapter, the following Overlay Zoning Districts are established:

FW Floodway Overlay Zoning District
FF Floodway Fringe Overlay Zoning District
FP General Flood Plain Overlay Zoning District
MHR Merle Hay Road Corridor Overlay Zoning District
A Animal Keeping Overlay Zoning District
CL Cluster Overlay Zoning District

169.02 FLOOD HAZARD OVERLAY ZONING DISTRICT. This section shall apply to all lands within the jurisdiction of the City shown on the Official Zoning Map as shown as being within the boundaries of the FW Floodway, FF Floodway Fringe, and FP General Floodplain and provisions of Sections 169.03, 169.04 and 169.05.

1. Statement of Intent. It is the purpose of this chapter to promote the public health, safety, and general welfare by minimizing flood losses and secure safety from flooding and to provide the following:

   A. Reserve sufficient flood hazard areas for the conveyance of flood flows so that flood heights and velocities will not be increased substantially.

   B. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.

   C. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against flood damage at the time of initial construction.
D. Protect individuals from buying lands which are unsuit for intended purposes because of flood hazard.

E. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.


A. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, delegated the responsibility to cities to enact zoning regulations to secure safety from flood and to promote health and general welfare.

B. The flood hazard areas of the City are subject to periodic inundation which can result in loss of life, property, and health; safety hazards; disruption of commerce and governmental services; extra-ordinary public expenditures for flood protection and relief; and impairment of the tax base; all of which adversely affect the health, safety, and general welfare of the community.

C. These losses, hazards, and related effects are caused by (i) the occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flood, and (ii) the cumulative effect of flood plain construction on flood flows, which causes increases in flood heights and flood water velocities.

D. This section relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Iowa Department of Natural Resources.

3. Rules for Interpretation of District Boundaries. The boundaries of the district shall be determined by scaling distances on the Official Zoning Map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the Official Zoning Map, the Zoning Administrator shall make the necessary interpretation with the use of available topographic information and projected flood elevations. Persons contesting the location of the district boundary shall be given a reasonable opportunity to present their case and submit technical evidence to the Zoning Administrator subject to the right of appeal to the Board of Adjustment. The Flood Insurance Study and Flood Insurance Rate Maps for the City of Johnston, dated July 19, 2000, as amended, and future revisions thereto are made a part of the Official Zoning Map of the City.

4. 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.

5. 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 provisions of this chapter shall prevail.

6. Interpretation. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall not be deemed a limitation or repeal of any other powers granted by State statutes.
7. Warning and Disclaimer of Liability. The City, by adoption of this ordinance, does not warrant or imply to the public or any individual that compliance with this chapter will protect the public or any individual from injury, property damage, or death as result of flood, flood heights, or as consequence of water velocity or intensity accompanying any flooding. This section does not create any cause of action, right, or entitlement in the public generally or any individual whether that individual is a person, firm, corporation, or other entity. Neither the City nor any of its officers, officials, or employees shall have any liability to anyone for any claim, injury, property damage, death, or any claim connected therewith based upon any provisions of this section.

8. Duties and Responsibilities of Zoning Administrator Concerning Flood Hazard Area Overlay Zoning Districts. Duties and responsibilities of the Zoning Administrator shall include, but are not necessarily be limited to, the following:

   A. Review all flood plain development permit applications to insure that the provisions of this section will be satisfied.

   B. Review all flood plain development permit applications to insure that all necessary permits have been obtained from Federal, State or local governmental agencies.

   C. Record and maintain a record of (i) the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor of all new or substantially improved buildings or (ii) the elevation to which new or substantially improved structures have been floodproofed.

   D. Notify the Iowa Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Insurance Administrator.

   E. Keep a record of all permits, appeals, variances, special use permits and such other transactions and correspondence pertaining to the administration of this section.

   F. Submit an annual report form supplied by the Federal Insurance Administration to the Federal Insurance Administrator concerning the community’s participation.

   G. Notify the Federal Insurance Administration of any annexations or modifications to the community’s boundaries.

   H. Review subdivision and site plan proposals to insure such proposals are consistent with the purpose of this section and advise the Planning and Zoning Commission and the City Council of potential conflicts.

   I. Prepare, keep on file, and furnish each applicant a current list of documents and publications currently utilized to determine compliance with this section and governmental agencies that may be used as an aid to interpret that agency’s requirements.


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

B. Application for Permit. Application for a Flood Plain Development Permit shall be made on forms supplied by the Zoning Administrator and shall include the following information:

1. Description of the work to be covered by the permit for which application is to be made.

2. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address, or similar legal description) that will readily identify and locate the work to be done.

3. Identification of the use or occupancy for which the proposed work is intended.

4. Elevation of the one hundred (100) year flood.

5. 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 floodproofed.

C. Action for Permit Application. The Zoning Administrator shall, within a reasonable time, make a determination as to whether the proposed flood plain development meets the applicable provisions and standards of this chapter and shall approve or disapprove the application. For disapprovals the applicant shall be informed, in writing, of the specific reasons therefore and shall have the right to appeal to the Board of Adjustment. The Zoning Administrator shall not issue permits for Uses or Variances except as directed by the Board of Adjustment.

D. Construction and Use to be as Provided in Application and Plan. 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 ordinance. The applicant shall be required to submit certification by professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, and the plans submitted for variance or Zoning Administrator’s approval, prior to the building permit, use or occupancy of any structure or land.

10. Board of Adjustment Variances. The Board of Adjustment may authorize upon request in specific cases such variance from the terms of this chapter that will not be contrary to the public interest, where owing to special conditions a literal enforcement of this chapter will result in exceptional hardship. Variances granted must meet the following applicable standards:

A. No variance shall be granted for any development within the Floodway District which would result in any increase in the one hundred (100) year level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
B. 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 or extraordinary public expense; create nuisances; or cause fraud on or victimization of the public.

C. Variance shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard to afford relief.

D. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this section, the applicant shall be notified in writing over the signature of the Zoning Administrator that (i) the issuance of a variance will result in increased premium rates for flood insurance and (ii) such construction increases risks to life and property.

E. All variances approved by the Board of Adjustment shall be submitted for approval to the Iowa Department of Natural Resources for approval and such approval of the variance by the Board of Adjustment shall not be valid until State approval is obtained.

F. After the Board of Adjustment has granted approval of a variance, the applicant shall have one (1) year in which to initiate and file for approval with the Iowa Department of Natural Resources.

G. After approval by the Iowa Department of Natural Resources of the variance, the applicant must implement the development variance within one (1) year of the variance or the approval of the Board of Adjustment is null and void and has no further force and effect.

11. Factors Upon Which the Decision of the Board Shall be Based. In passing upon applications for Special Uses or Requests for Variances, the Board shall consider all relevant factors specified in other sections of this ordinance:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments.

B. The danger that materials may be swept onto other lands or downstream to the injury of others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

E. The importance of the services provided by the proposed facility to the community.

F. The requirements of the facility for a flood plain location.

G. The availability of alternative locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

I. The relationship of the proposed use to the comprehensive plan and flood plain management program for the area.
J. The safety of access to the property in time of flood for ordinary and emergency vehicles.

K. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood water expected at the site.

L. Such other factors which are relevant to the purpose of this Chapter.

12. Conditions Attached to Variances. Upon consideration of the factors listed above, the Board may attach such conditions to the granting of Special Uses or Variances as it deems necessary to further the purpose of this Chapter. Such conditions may include, but not necessarily be limited to:

A. Modification of waste disposal and water supply facilities.

B. Limitation on periods of use and operation.

C. Imposition of operation controls, sureties, and deed restrictions.

D. Requirements for construction of channel modification, dikes, levees, and other protective measures, provided such are approved by the Iowa Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this Chapter.

E. Flood proofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, durations, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Board of Adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

F. Flood proofing measures may include, but are not necessarily limited to the following:

   (1) Anchorage to resist flotation and lateral movement.

   (2) Installation of watertight doors, bulkheads and shutters, or similar methods of construction.

   (3) Reinforcement of walls to resist water pressures.

   (4) Use of paints, membranes, or mortars to reduce seepage of water through walls.

   (5) Addition of mass or weight structures to resist flotation.

   (6) Installation of pumps to lower water levels in structures.

   (7) Construction of water supply and waste treatment systems so as to prevent the entrance of flood waters.

   (8) Pumping facilities or comparable practices for subsurface drainage systems for building to relieve external foundation wall and basement flood pressures.

   (9) Construction to resist rupture or collapse caused by water pressure or floating debris.
(10) Installation of valves or controls or sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and storm waters into the buildings or structures.

(11) Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding.

169.03 FLOODWAY OVERLAY ZONING DISTRICT. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the FW Floodway Overlay District.

1. Principal Permitted Uses. The following uses shall be permitted within the FW Floodway Overlay District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not include placement of structures, buildings, factory built homes, fill or other obstruction, the storage of materials or equipment, excavation, or alteration of a watercourse.

   A. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, aquaculture, truck farming, forestry, sod farming, wild crop harvesting, but not including livestock feed lots or poultry farms.

   B. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, fishing areas, hiking, biking and horseback riding trails.

   C. Open space uses such as lawns and gardens.

   D. Such other open-space uses similar in nature to the above uses.

2. Permitted Accessory Uses. The following uses may exist as part of, or in accessory to the principal permitted uses:

   A. Accessory uses customarily incidental to a principal permitted use, provided all restrictions required to develop in the FW District shall apply to any accessory uses.

3. Special Uses. The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment may be permitted only upon approval of a special use permit and only when adequate Public Liability Insurance is provided. Such uses must also meet the applicable provisions of the Floodway District Performance Standards and the standards and allowed usage of the appropriate underlying zoning district.

   A. Extraction of sands, gravel, and other materials.

   B. Marinas, boat rentals, docks, piers, and wharves.

   C. Utility transmission lines and underground pipelines.

   D. Other uses similar in nature to uses described in this subsection and which are consistent with the provisions and the general spirit and purpose of this subsection.
4. Performance Standards. All FW Floodway Overlay Zoning District uses allowed as a principal permitted use, accessory use or special use, shall meet the following standards:

   A. No use shall be permitted in the FW Floodway Overlay Zoning District that would result in any increase in the one hundred (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.

   B. All uses within the FW District shall:

       (1) Be consistent with the need to minimize flood damage.

       (2) Use construction methods and practices that will minimize flood damage.

       (3) Use construction materials and utility equipment that are resistant to flood damage.

   C. No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system.

   D. Structures, buildings, and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the FF Floodway Fringe Overlay Zoning District and shall be constructed or aligned to present the minimum possible resistance to flood flows.

   E. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.

   F. Storage of equipment or materials that are buoyant, flammable, explosive, hazardous, or injurious to human, animal, or plant life is prohibited. Storage of other material may be allowed if readily removable from the FW District within the time available after flood warning.

   G. 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 Iowa Department of Natural Resources.

   H. Any fill allowed in the FW District shall not increase the one hundred (100) year flood profile.

   I. Pipeline river or stream crossings shall be buried in the stream bed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

169.04 FLOODWAY FRINGE OVERLAY ZONING DISTRICT. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the FF Floodway Fringe Overlay Zoning District.

1. Principal Permitted Uses. All uses within the Floodway Fringe Overlay Zoning District shall be limited to the extent that they are not prohibited by the underlying zoning district or any other section of this ordinance and provided they meet applicable performance standards of the Floodway Fringe Overlay Zoning District.
2. Performance Standards. All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.

   A. No development within the Floodway Fringe Overlay Zoning District shall increase the flood heights or flood profile.

   B. All structures shall (i) be adequately anchored to prevent flotation, collapse, or lateral movement of the structure, (ii) be constructed with materials and utility equipment resistant to flood damage, and (iii) be constructed by methods and practices that minimize flood damage.

   C. Nonresidential Buildings. All new or substantially improved nonresidential buildings shall have the first floor (including basement) elevated a minimum of one (1) foot above the one hundred (100) year flood level, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one hundred (100) year flood level; and that the structure, below the one hundred (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 mean sea level) to which any structures are floodproofed shall be maintained by the Zoning Administrator.

   D. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor (including basements) elevated or floodproofed a minimum of one (1) foot above the one hundred (100) year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the one hundred (100) year flood level. Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration of the Board of Adjustment and issuance of a variance by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding, and be engineered by a registered professional engineer in the State of Iowa.

   E. Fully enclosed areas below the “lowest floor” (not including basement) 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 floodwater. Designs for meeting this requirement must be certified by a registered professional engineer and meet or exceed the following minimum criteria:

   (1) A minimum of two openings having a total net area of not less than one (1) 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 (1) 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.

F. 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.

G. 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.

H. Utility Systems.

(1) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities shall be provided with a level of flood protection equal to or greater than one (1) foot above the one hundred (100) year flood elevation.

(2) On site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

(3) New or replacement water supply systems shall be designed to eliminate infiltration of flood waters into the system. Water supply treatment facilities shall be provided with a level of protection equal to or greater than one (1) foot above the one hundred (100) year flood elevation.

(4) Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with flood damaged or impaired system.

I. Storage of materials and equipment that are flammable, explosive, hazardous, or injurious to human, animal, or plant life is prohibited unless elevated a minimum of one (1) foot above the one hundred (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.

J. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, a protection from a one hundred (100) year flood with a minimum of three (3) foot of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Iowa Department of Natural Resources.

K. No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or other drainage facility or system.
L. The exemption of detached garages, sheds, and similar structures from the one hundred (100) year flood elevation requirements may result in increased premium rates for insurance coverage of the structure and contents, however, said detached garages, sheds, and similar accessory type structures are exempt from the one hundred (100) year flood elevation requirements when:

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. Structures 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 floodproofed to at least one (1) foot above the one hundred (100) year flood level.

M. Factory-built homes:

1. Factory-built homes including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement.
2. Factory-built homes including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the one hundred (100) year flood level, and shall comply with Performance Standards of this section for utility systems, including water and sanitary sewer facilities.

N. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance standards. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain above flood levels during occurrence of the one hundred (100) year flood.

O. Recreational Vehicles. Recreational vehicles are exempt from the requirements of paragraph M of this subsection 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 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.
2. 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 paragraph M of this subsection regarding anchoring and elevation of factory-built homes.

3. Shallow Flooding Areas. The performance standards for Shallow Flooding Areas shall be the same as the performance standards for the Floodway Fringe Overlay Zoning District with the following exceptions:

A. In Shallow Flooding areas designated as an AO Zone on the Flood Insurance Rate Map, the minimum floodproofing/flood protection elevation shall be equal to the number of feet as specified on the FIRM (or a minimum of two (2) feet if no number is specified) above the highest natural grade adjacent to the structure.

B. 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 Rate Map.

169.05 GENERAL FLOOD PLAIN OVERLAY ZONING DISTRICT. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the FP General Flood Plain Overlay District.

1. Principal Permitted Uses. Principal permitted uses in the Floodway of the FP Overlay Zoning District shall be as they are permitted in the FW Overlay Zoning District and in the Floodway Fringe of the FP Overlay Zoning District as determined by the Iowa Department of Natural Resources.

2. Permitted Accessory Uses. The following uses may exist as part of, or in accessory to the principal permitted uses:

A. Accessory open space uses customarily incidental to a principal permitted use, provided all restrictions required to develop in the FP Overlay Zoning District shall apply to any accessory use.

3. Special Uses. Any use which involves placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation, or alteration of a watercourse may be allowed only upon issuance of a special use permit by the Board of Adjustment as provided for in Chapter 172. All such uses shall be reviewed by the Department of Natural Resources to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the one hundred (100) flood level. The applicant shall be responsible for providing the Iowa Department of Natural Resources with sufficient technical information to make the determination.

4. Performance Standards.

A. No development within the FP General Flood Plain Overlay Zoning District shall be permitted where such development increases flood heights or the flood profile.

B. All uses or portions thereof to be located in the Floodway of the FP Overlay Zoning District as determined by the Iowa Department of Natural Resources shall meet the applicable provisions and standards of the FW Overlay Zoning District.

C. All uses or portions thereof to be located in the floodway fringe of the FP Overlay Zoning District as determined by the Iowa Department of Natural Resources shall meet the applicable provisions and standards of the FW Overlay Zoning District.
Resources shall meet the applicable standards of the FF Overlay Zoning District and the appropriate underlying zoning district.

169.06 MERLE HAY ROAD CORRIDOR OVERLAY ZONING DISTRICT. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the MHR Overlay Zoning District.

1. Statement of Intent. The MHR Overlay Zoning District is intended to enhance the visual appearance and image of the Merle Hay Road Corridor and advance the public welfare through the resulting benefits to the economy and quality of life for the City of Johnston. The Merle Hay Road Corridor extends more than two and one-half (2-1/2) miles between Interstate 35/80 and NW Beaver Drive through the City of Johnston and provides one of the major accesses to the Saylorville Lake and Big Creek Lake recreation areas. The City has recognized the importance of Merle Hay Road to the City of Johnston as a thoroughfare for regional traffic, the impact its character has on the image of the community, and the need to provide restrictions and guidelines to enhance the visual appearance and image of the Merle Hay Road Corridor. On file at Johnston City Hall are conceptual standards and guidelines contained within the Merle Hay Road Corridor study which this section has been established to implement, in part.

2. Applicability. The restrictions, regulations, and guidelines on development and construction set forth by this Section shall apply to the MHR Merle Hay Road Corridor Overlay Zoning District shown on the Official Zoning Map of the City. If the restrictions, regulations and guidelines of the MHR Overlay Zoning District require standards, height regulations, bulk regulations, open space and landscaping requirements, off-street parking and loading requirements, buffer requirements, architectural standards, sign regulations, lighting standards, street right-of-way improvements, or other requirements and standards which are greater, or different than those set forth in the underlying zoning district, the requirements and standards of this section shall govern.

3. (Repealed by Ord. 933 – Nov. 16 Supp.)

4. Open Space and Landscaping Requirements. On-site open space and landscaping requirements shall be the same as required for the underlying zoning district. In addition, street trees shall be required on all streets and spaced at fifty foot (50) intervals. The species selected should provide a shade canopy over the public right-of-way and shall be two (2) to two and one-half (2-1/2) inches caliper or greater in size at the time of planting.

5. Off-Street Parking and Loading. Off-street parking and loading requirements shall be the same as required for the underlying zoning district, with the following additional requirements.

   A. Parking areas and loading areas including loading dock shall be placed and screened to be obstructed from view from any public street.

   B. No part of any parking or loading space and associated access drive shall be closer than fifteen (15) feet to any public street right-of-way or public street easement to permit adequate area for landscape screening and to perpetuate the desired open space character within this overlay district.
C. Greater setbacks than noted in (B) above may be required if future right-of-way is required for Merle Hay Road to meet the designated widths of a major arterial street as identified in the Comprehensive Plan and Title 16.

6. Sign Regulations. Sign regulations shall be the same as required by the underlying zoning district; provided, however, all on-premises freestanding signs shall meet ground sign standards, except for Interstate/Height Rise Signs which may be permitted within 1,000 feet of the traveled way of the Interstate Highway and all building signs shall incorporate aesthetic features compatible with the intent of the MHR Overlay District. All building signs shall be composed of solid individual letters and logos or individual illuminated self-contained letters and logos attached to the building’s exterior wall fascia. Panel signs with letters incorporated or painted upon a panel or wall area shall be prohibited; except, however, the use of a uniform panel sign system to identify occupants of a multi-tenant retail shopping center after having made a determination that the use of a uniform panel sign system maintains the aesthetic quality and character of the development and the MHR Overlay District.

169.07 ANIMAL KEEPING OVERLAY ZONING DISTRICT. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the A Overlay Zoning District.

1. Statement of Intent. The A Overlay Zoning District is intended to allow the continuation and development of new areas with a distinctive rural character. The A Overlay Zone may be used in combination with R-E, R-1(150), R-1(100) Districts.

2. Applicability. The restrictions, regulations, and guidelines on development and construction set forth by this Section shall apply to the A Overlay Zoning District shown on the Official Zoning Map of the City. If the restrictions, regulations and guidelines of the A Overlay Zoning District require standards which are greater, or different, than those set forth in the underlying zoning district, the requirements and standards of this section shall govern.

3. Animal Restrictions. Livestock keeping is a permitted accessory use to the principal use of a residence within the A Overlay Zone. Animals and poultry may be kept for personal use only and not for commercial use within the A Overlay Zone and as otherwise limited in this section. All accessory structures and enclosures for protection of the animals, including fences, are subject to the accessory use requirements of Section 166.23 of this zoning ordinance. All animal keeping is subject to subsections 1 through 6. The maximum numbers of animals that may be permitted are subject to the limitations of Table 169.07(3).

<table>
<thead>
<tr>
<th>Animals Allowed</th>
<th>Area Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Horses, bovine animals, sheep, goats and other similar large animals</td>
<td>One adult animal of any one kind may be kept on any one lot with a minimum area of 87,120 square feet. One additional adult animal may be added for each 43,560 additional square feet of lot area.</td>
</tr>
<tr>
<td>Poultry, rabbits, mink, chinchillas, pigeons, hamsters, and other fowl or small animals</td>
<td>No more than 12 of any one of such adult animals may be kept on a lot of less than 87,120 square feet in size. One animal may be added for each 8,000 square feet of area added. The maximum number of animals allowed is 24.</td>
</tr>
</tbody>
</table>
A. There is no limit on the permitted number of juvenile (less than 6 months old) animals permitted on the property provided they are offspring to the adults currently on the property.

B. All livestock and poultry must be placed in a structurally sound fence, pen or building.

C. Animals shall not create or constitute a nuisance, including excessive noise, odor or dust.

D. All offensive odors created by the animals shall be prohibited. The area where the animals are permitted shall be kept clean and free from debris and animal waste.

E. Disposal of animal waste shall conform to the current Polk County Local Board of Health rules and regulations.

F. Any owner of animals shall comply with all statutes, ordinances and regulations regarding health and safety of the State of Iowa, Polk County, and the City of Johnston.

169.08 CLUSTER OVERLAY ZONING DISTRICT. The regulations set forth in this section, or elsewhere in this ordinance when applicable, shall apply in the Cluster (CL) Overlay Zoning District.

1. Statement of Intent. The Cluster (CL) Overlay Zoning District is intended to allow the continuation and development of areas with a distinctive character and preserve or establish open space integrated into the development. The CL Overlay Zone may be used in combination with any A-R or R District. It would permit variations in lot size and yard requirements as set forth within this ordinance provided the total number of dwelling units in the proposed development do not exceed the number of gross dwelling units permitted in the underlying zoning district. [The CL Overlay Zone in combination the underlying zoning of A-R would allow the creation of a new lot with the minimum area and other bulk requirements of the R-E District. Consequently, on a 60-acre parcel of property, a new parcel of a minimum of 3 acres in size could be created. However, no additional subdivision of lots could occur because the maximum density of 0.033 DU/acre would be met (0.033 DU/AC X 60 acres = 2).]

2. Applicability. The restrictions, regulations, and guidelines on development and construction set forth by this Section shall apply to the CL Cluster Overlay Zoning District shown on the Official Zoning Map of the City. If the restrictions, regulations and guidelines of the CL Overlay Zoning District require standards which are greater, or different, than those set forth in the underlying zoning district, the requirements and standards of this section shall govern.

3. Lot Development Requirements. In the CL Overlay Zone the minimum setback, bulk and density standards of the underlying district may be amended based upon the following table. The minimum bulk requirements are intended to be guides, but are not permitted unless and until the City determines through the approval of a preliminary and final plat that clustered lots are consistent with the Comprehensive Plan, are appropriate for the area, and are compatible with adjacent development.
Table 169.08(3)

<table>
<thead>
<tr>
<th>Underlying District</th>
<th>Maximum Density DU/Acre</th>
<th>Minimum Bulk Requirements Applicable</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-R</td>
<td>0.033</td>
<td>R-E</td>
</tr>
<tr>
<td>R-E</td>
<td>0.33</td>
<td>R-1(150)</td>
</tr>
<tr>
<td>R-1(150)</td>
<td>0.875</td>
<td>R-1(100)</td>
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<tr>
<td>R-1(100)</td>
<td>1.97</td>
<td>R-1(75)</td>
</tr>
<tr>
<td>R-1(90)</td>
<td>2.60</td>
<td>R-1(60)</td>
</tr>
<tr>
<td>R-1(75)</td>
<td>3.44</td>
<td>R-1(60)</td>
</tr>
</tbody>
</table>

4. Assurances. The City will require assurances that open space will remain in perpetuity and that the maximum allowable density will not be exceeded unless the zoning district is modified. The assurance may be in the form of restrictive covenants, easements, development agreements, the creation of common area in joint ownership, or other mechanism satisfactory to the City.

[The next page is 1235]
CHAPTER 170
ZONING – SIGN REGULATIONS

170.01 Title
170.02 Statement Of Intent
170.03 Definitions
170.04 General Prohibitions
170.05 Sign Area Formulas
170.06 Prohibited Signs
170.07 Exemptions
170.08 On-Premises Sign Regulations
170.09 Freestanding Identification Signs
170.10 Interstate Oriented Signs
170.11 Directory Signs
170.12 Building Signs
170.13 Projecting Signs
170.14 Marquees, Awnings and Canopy Signs
170.15 Directional Signs
170.16 Flags and Banners
170.17 Temporary Signs
170.18 Permits and Fees
170.19 Inspection
170.20 Unsafe and Unlawful Signs
170.21 Painting Required
170.22 Wind Pressure and Dead Load Requirements
170.23 Removal of Obsolete Signs
170.24 Maintenance
170.25 Signs not to Constitute Traffic Hazard
170.26 Signs on City Property and Right-Of-Way
170.27 Nonconforming Signs
170.28 Revocation of Permits
170.29 Jurisdiction of Board of Adjustment
170.30 Jurisdiction of Board of Appeals

170.01 TITLE. This chapter shall be known and may be cited and referred to as the “Sign Ordinance” of the City of Johnston, Iowa, and shall apply to all properties within the City.

170.02 STATEMENT OF INTENT. In the interest of promoting the general welfare of the community and public safety, it is recognized that the community should be aesthetically attractive as well as financially prosperous. The purpose of this chapter is to regulate signs in such a way as to establish a compatibility of sign usage with the land use patterns and standards for the zoning district, and to permit such signs which will not, by reason of their size, location, construction or manner of display cause an annoyance or disturbance to citizens, detract from the community’s aesthetic attractiveness, create a hazard, confuse or mislead traffic, obstruct vision necessary for traffic safety, or otherwise endanger the public morals, health or safety.

170.03 DEFINITIONS.

1. “Awning sign” means a sign painted on or incorporated into an awning. The area of an awning sign shall be the area of the inscription or message incorporated into the awning, provided the awning is not internally illuminated. For an awning sign incorporated on an awning internally illuminated, the area of the entire awning shall be considered the sign area.

2. “Banner” means any fabric, banner or bunting containing words, numbers, colors, patterns or symbols, either enclosed in a rigid frame, secured or mounted so as to allow movement of the sign caused by movement of the atmosphere. Banners do not include those signs which are defined as flags in this chapter.

3. “Billboard” means any structure, regardless of material used in the construction of the same, that is erected, maintained, or used for public display of poster, painted signs, wall signs, whether the structure is placed on the wall itself, pictures, or other pictorial reading matter which advertise a business, a commodity sold, service, or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.
4. “Building sign” means a sign which is wholly supported by the building wall, parallel to the plane thereof, and which does not extend beyond the surface of said building wall more than twelve (12) inches. A building sign may be painted on, incorporated in, or affixed to the building wall, or any sign consisting of cut-out letters or devices affixed to the building wall with no background defined on the building wall.

5. “Changeable copy sign (manual)” means a sign on which copy is changed manually in the field, i.e., reader boards with changeable letters or changeable pictorial panels.


7. “Construction sign” means signs identifying the architects, engineers, contractors and other individuals involved in the construction of a building or subdivision and such signs announcing the character of the building enterprise or the purpose for the development is intended but not including product advertising.

8. “Directional sign” means any sign that does not advertise a product or place of business, but exists solely to direct vehicular or pedestrian traffic to a location of a business or part of a business. A directional sign shall not contain names or logos.

9. “Directory sign” means a permanent diagrammed representation located near the entrance of a complex which shows the location and address of the unit designations within a complex.

10. “Electronic message center” means a sign that is electronically or electrically controlled that displays a message center or reader board composed of a series of lights that may be changed through electronic means.

11. “Flag” means any fabric, banner or bunting containing words, numbers, colors, patterns or symbols, used as a symbol of a government or political subdivision, including flags of the United States, the State, the City, foreign nations having diplomatic relations with the United States, and other flags adopted or sanctioned by an elected legislative body of competent jurisdiction.

12. “Free standing signs,” including pole and ground signs, as regulated by this chapter, include any sign which is supported by one or more uprights or braces in or upon the ground and not attached to any building or wall.

13. “Identification sign” means an on-premises sign that displays no more than the name, address, crest or insignia, occupation or profession of an occupant of the premises, name of any building on the premises or the trademark of the occupant.

14. “Illuminated sign” means any sign which has characters, letters, figures, designs or outline illuminated by electric lights or luminous tubes as part of the sign proper.

15. “Interstate high rise sign” means an on-premises pole sign which is constructed to attract the attention of interstate travelers and is located within 1,200 feet of the centerline of Interstate 35/80 and identifies or advertises the use of the principal building(s).

16. “Interstate oriented sign” means an on-premises sign which is constructed to attract the attention of interstate travelers and is located within 1,000 feet of the centerline of Interstate 35/80 and identifies or advertises the use of the principal building(s).
17. “Memorial sign” means memorial signs or tablets, names of buildings and date of erection when engraved into any masonry surface or when constructed of bronze or other incombustible materials. Memorial signs shall not contrast in color from the material of which said sign is constructed.

18. “Monument sign” means an on-premises sign, other than a pole sign, where the sign and its encasement and structural trim are fully supported at the sign’s base by its supporting column and where the width of the supporting column is no less than 80 percent of the average width of the sign it supports.

19. “Obsolete signs” means such signs that advertise an activity, business, product or service no longer conducted on the premises on which the sign is located.

20. “On-premises sign” means a sign the primary purpose of which is to advertise, identify, and/or direct attention to a profession, business, service, activity, product, campaign or attraction which is carried on, sold, offered or manufactured in or upon the premises.

21. “Panel sign” means a message, inscription or logo which is painted or affixed to a panel of wood, plastic, cloth, fiberglass, or other material which is not part of the building’s exterior materials, is of greater area than the message, inscription or logo, and provides a background for the message, inscription or logo.

22. “Pole sign” means an on-premises freestanding sign that is supported by one or more uprights not attached to, or braced by, any other structure. Pole signs shall have a clear open space of not less than ten (10) feet between the base line of said sign and the ground level.

23. “Political issue sign” means a sign announcing, promoting (for or against), or drawing attention to any personal or political issue or candidate(s) seeking public political office.

24. “Portable sign” means a freestanding sign not permanently anchored or secured to the ground or any building or wall.

25. “Project identification sign” means a sign identifying the name of a complex, development or subdivision, which is incorporated with a landscape feature such as planter beds, fountains, decorative walls, fences or other landscape features.

26. “Projecting sign” means a sign, other than a wall sign, which projects from and is supported by a wall of a building or structure.

27. “Public sign” means such a sign of a non-commercial nature and in the public interest, erected by or upon the order of a public officer in the performance of such officer’s public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest and all other similar signs, including signs designating hospitals, libraries, schools, airports and other institutions or places of public interest or concern.

28. “Raceway” means a channel for enclosing electrical wires and/or other equipment used for the operation of illuminated signage or mounting non-illuminated signage including but not limited to letters, logos, or symbols; that is not larger than the letters, logos, or symbols nor creates a background for the letters, logos, or symbols and is colored to match the building’s exterior materials.

29. “Real estate signs” means such signs advertising the sale, rental or lease of the premises or part of the premises on which the signs are displayed.
30. “Roof sign” means a sign erected upon or above a roof or parapet of a building.

31. “Service sign” means a sign identifying rest rooms, public telephone facilities, first aid stations, emergency shelters and other similar public service facilities.

32. “Sign” means any device fixed to, painted on, or incorporated into the building surface or displayed from or with a building or structure, or free standing upon the site and which is visible from the public right-of-way and designed to convey or direct a message to the public concerning the identification of the premises, to advertise or promote the interests of any private or public firm, person, organization, or other entity, or to draw attention to the use on the premises.

33. “Sign area” means that area of a sign’s exposed facing, determined by the Zoning Administrator using actual dimensions where practical, or approximate dimensions when irregularity of a sign shape warrants. Such area shall be measured using one of the formulas in Section 170.05 of this chapter.

34. “Sign copy” means words, letters, logos figures, symbols, illustrations, or patterns that form a message or otherwise call attention to a business, product, service, or activity, or to the sign itself.

35. “Sign perimeter” means the external boundary of a sign at its widest point per plan view.

36. “Temporary sign” means any construction, real estate, political, portable or other sign, banner, pennant, streamer, inflatable signs, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other materials, with or without frames, intended to be displayed for a short period of time only.

37. “Temporary window sign” means a sign, banner, pennant, streamer, or advertising display constructed of cloth, canvas, light fabric, cardboard, wall board or other materials which is displayed but not permanently installed or painted on or behind any window for the purposes of viewing from a public street. This term does not include merchandise located in a window.

38. “Vehicle sign” means a message, inscription or logo painted, attached, or incorporated on a motor vehicle which advertises or promotes the interest of any private or public firm, person, organization, or other entity, or to draw attention to the use on the premises.

39. “Vision triangle” means that area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines 25 feet from the point of intersection of said right-of-way lines. Greater dimensions may be required on streets with higher traffic volumes, based upon the standards of the Institute of Transportation Engineers or the Association of American State Highway Officials.

40. “Wall area” means that area of a building as calculated by multiplying the height of the building, as measured from the average ground level to the roof eave line times the width of the building, which is the width of the building facing the street as measured from an elevation view.

41. “Window sign” means a sign installed inside or painted upon a building or window for purposes of viewing from a public street. This term does not include merchandise located in a window, holiday displays, open/closed signs or other signs, which are temporary in nature.

(Subsections 28 – 41 - Ord. 933 – Nov. 16 Supp.)
170.04 GENERAL PROHIBITIONS.

1. No sign shall be allowed except as permitted by this chapter.

2. No sign shall be located so that the safety of a moving vehicle or pedestrian will be impaired by obscuring a driver’s or pedestrian’s vision.

3. Signs shall be properly erected or attached to a structure and kept in good repair. Any lettering, logo, design, and other markings placed upon the sign shall be clear, distinct, and readable and maintained in that condition.

170.05 SIGN AREA FORMULAS. The area of a sign is determined by the Zoning Administrator, using actual dimensions where practical or approximate dimensions when irregularity of a sign shape warrants. The area of each sign type is to be measured with either Formula A or Formula B as noted below.

Formula A: The sign area is the sum of the area of two (2) contiguous rectangles, squares or circles that enclose the extreme points or edges of all copy, logos and symbols of said sign.

\[(A1 \times A2) + (B1 \times B2) = \text{Sign Area}\]

Formula B: The sign area is the area of one rectangle, square or circle that encloses the extreme points or edges of all areas where copy may be placed on a sign. This area does not include structural or architectural features of the sign where copy will not be located.

\[(A \times B) = \text{Sign Area}\]
170.06 PROHIBITED SIGNS. The following signs shall not be permitted, erected or maintained on any property within the City, unless located within the confines of a building, or not visible from outside the premises of the lot in which the sign is located.

1. Moving Lights. Signs which incorporate in any manner any flashing, pulsating, rotating, beacons, or moving lights.


3. String Lights. String lights used in connection with commercial premises for commercial purposes, other than Christmas decorations used from November 1 to January 15 on a temporary basis.

4. Moving Parts. Any sign which has any visible moving part, visible revolving parts or visible mechanical movement of any description or other apparent visible movement achieved by electrical, or mechanical means, including intermediate electrical pulsations, or by action of normal wind currents.

5. Hazardous Sign. Any sign or sign structure which:
   A. Is structurally unsafe, or
   B. Constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation or abandonment, or
   C. Is not kept in good repair, or
   D. Is capable of causing electrical shocks to persons likely to come in contact with it.

6. Traffic Hazard. Signs that constitute a traffic hazard, as noted in Section 170.25.

7. Obstructions. Signs that constitute an obstruction so as to prevent free ingress or egress through any door, window or fire escape.

8. Prohibited Attachment. No sign or other advertising structure of any kind shall be attached to a standpipe or fire extinguisher.

9. Obscene Matter. Signs that display obscene, indecent or immoral matter that illustrates or states specified anatomical areas or specified sexual activities.


11. Roof Signs.


13. Pole Signs.

14. Signs Projecting over Public Right-of-Way. It is unlawful to erect or maintain any sign on over, or above any land or right-of-way belonging to City or other governmental entity unless specifically allowed by Section 170.26.

15. Discontinued Use. On-premises signs that advertise an activity, business, product, or service no longer offered or conducted on the premises on which the sign is located for a period of more than six (6) months after such activity, business, product, or service has ceased being offered or conducted.
16. High Intensity or Glaring Lights. High intensity lights, strobe lights, or rotating beams shall be prohibited outside of a building or visible from the outside of a building in all zoning districts except when otherwise legally displayed as emergency lights or warning lights. Illumination of signs shall be designed in such a way as to reflect light away from residential properties and motorists’ vision.

17. Conflicting Signs. Signs with a format which resembles or conflicts with traffic signs or signals.

18. Unlawful Signs. Any sign unlawfully installed, erected or maintained in violation of this chapter.


20. Temporary Signs. All temporary signs except those that are specifically allowed by this chapter.

170.07 EXEMPTIONS. The following signs shall not require a sign permit.

1. Professional nameplates not exceeding one square foot in area.

2. Signs located within the confines of a building, except those that are defined as window signs.

3. Bulletin boards not over eight (8) square feet in area for public, charitable or religious institutions when the same are located on the premises of said institution.

4. Memorial signs or plaques, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other noncombustible and maintenance free materials, and not exceeding fifty (50) square feet in area.

5. Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary emergency or non-advertising signs as may be installed or approved by the City.

6. Service signs identifying restrooms, public telephone facilities, first aid stations, emergency shelters and other similar public service facilities.

7. Building addresses on buildings and signs.

170.08 ON-PREMISES SIGN REGULATIONS. The standards and regulations set forth within Sections 170.08 through 170.13 apply to all on-premise signs, which advertise, identify, and/or direct attention to a profession, business, service, activity, product, campaign or attraction which carried on, sold, offered, or manufactured in or upon the premises.

170.09 FREESTANDING IDENTIFICATION SIGNS. There shall be permitted one (1) freestanding identification sign for each street frontage of a lot; for lots with street frontage exceeding 600 feet, one (1) sign shall be allowed for each three hundred (300) feet of street frontage. No freestanding identification sign shall be located within the vision triangle. Freestanding identification signs shall include on-premises monument signs, and project identification signs as defined within this chapter. The following type, size, height, and setback for freestanding identification signs shall be permitted within the following zoning districts by use.

1. Monument Signs. Monument signs shall be allowed in the A-R, CO, C-1, C-2, C-3, IC, M-1, M-2, MHR, R-O, ROC-1, ROC-2, and PC Zoning Districts. The following standards and regulations shall be applied:

(Ord. 954 – Nov. 17 Supp.)
A. Monument signs shall not exceed ten (10) feet in height.

B. The sign area of monument signs shall not exceed eighty (80) square feet as calculated using Formula B as defined in Section 170.05.

C. Monument signs shall have a minimum front yard setback of fifteen (15) feet from the right-of-way line, and a side yard setback of ten (10) feet from the property line.

D. On lots where more than one monument sign is allowed, such signs shall be separated by a minimum of one hundred fifty (150) feet.

E. Monument signs may contain areas for manual changeable copy or electronic message centers, provided such sign area does not exceed fifty percent (50%) of the sign area of the sign. Electronic message centers are further regulated as follows:

   (1) Electronic message center copy may change no more than once per a five (5) minute period and shall not include any flashing, flowing, alternating or blinking lights. Exempt from the time regulations are Amber Alerts and emergency messages.

   (Ord. 934 – Nov. 16 Supp.)

   (2) Electric message centers shall be integral to and a part of an approved monument sign.

   (3) Electric message center copy shall be limited to one (1) color.

2. Project Identification Signs. Project identification signs shall be allowed in all Zoning Districts. The following standards and regulations shall be applied:

   A. Project identification signs shall not exceed ten (10) feet in height.

   B. The sign area of project identification signs shall not exceed forty (40) square feet as calculated using Formula A as defined in Section 170.05.

   C. Project identification signs shall have a minimum front yard setback of ten (10) feet from the right-of-way line, and a side yard setback of ten (10) feet from the property line.

   D. Project identification signs shall be separated from any other freestanding sign by a minimum of fifty (50) feet.

170.10 INTERSTATE ORIENTED SIGNS. There shall be permitted one (1) additional on-premises sign for all lots within 1,000 feet of the Interstate 35/80 right-of-way centerline. The following standards and regulations shall be applied:

1. Interstate oriented signs shall be permitted for lots within the C-3 District only.

2. Interstate oriented signs shall not exceed the greater of thirty (30) feet in height above the grade of Interstate 35/80 or sixty five (65) feet in height.

3. The sign area of an interstate oriented sign shall not exceed one hundred (100) square feet as calculated using Formula B as defined in Section 170.05.

4. Interstate oriented signs shall have a minimum setback from any public right-of-way of fifty (50) feet, and shall meet the other setbacks required in the C-3 District for a primary structure.
5. The faces of interstate oriented signs shall be oriented perpendicular (facing east/west) to the right-of-way of the nearest section of Interstate 35/80.

6. Interstate oriented signs shall be constructed as monument signs and supported at the sign’s base by a supporting column where the width of the supporting column is no less than forty percent (40%) of the average width of the sign it supports, with the minimum base width of three (3) feet. Such supporting columns shall be constructed with colors and materials that are compatible with the building materials of the principal buildings.

170.11 DIRECTORY SIGNS. One (1) freestanding directory sign shall be permitted within the lot of any permitted use in any zoning district, except within the lots of one- and two-family dwellings. Directory signs shall not be greater than ten (10) feet in height and shall not contain more than thirty-two (32) square feet of sign area as calculated using Formula B as defined in Section 170.05. Directory signs must be at least twenty-five (25) feet from a public street right-of-way and be oriented towards vehicular and pedestrian traffic within a complex or development.

170.12 BUILDING SIGNS. The following standards and regulations shall be applied to building signs as permitted by use and zoning district:

1. Residential Zoning Districts. Building signs shall be allowed in residential zoning districts as follows:
   A. For apartment complexes, provided the total building sign area does not exceed thirty (30) square feet per complex as calculated using Formula A as defined in Section 170.05.
   B. For other permitted nonresidential uses, provided the total building sign area does not exceed five percent (5%) of the total square footage of any wall area of the principal building facing street frontage, provided the total building sign area does not exceed 30 square feet per complex. The sign area shall be calculated using Formula A as defined in Section 170.05.
   C. No backlit signs shall be allowed in residential districts.

2. CO, C-1, C-2, C-3, IC, M-1, M-2, MHR, R-O, ROC-1, ROC-2, and PC Zoning Districts. The following maximum building sign area requirements shall apply to the CO, C-1, C-2, C-3, IC, M-1, M-2, R-O, ROC-1, ROC-2, and PC zoning districts.
   A. The sign area of building signs shall not exceed five percent (5%) of the total square footage of any wall area of the principal building facing street frontage. The sign area shall be calculated using Formula A as defined in Section 170.05.
   B. No more than two sides of the principal building facing street frontage shall be used to calculate the total building sign area allowed for a building.
   C. Building signs may be located on any side of a building so long as the total sign area square footage of all signs does not exceed the total building sign area allowed for a building.
   D. Building signs shall incorporate aesthetic features compatible with the overall character of the zoning district and neighborhoods.
E. The sign area of window signs shall be included in the total building sign area allowed for a building. The sign area shall be calculated using Formula A as defined in Section 170.05.

3. CO, C-1, C-2, IC, MHR, R-O, ROC-1, ROC-2, and PC Zoning Districts. Building signs in the CO, C-1, C-2, IC, MHR, R-O, ROC-1, ROC-2 and PC zoning districts are further restricted as follows.
   A. All building signs shall be composed of solid individual letters and logos or individual illuminated self-contained letters and logos attached to the building’s exterior wall fascia.
   B. Panel signs with letters incorporated or painted upon a panel or wall area shall be prohibited.
   C. The use of a uniform panel sign system to identify occupants of a multi-tenant retail shopping center may be approved by the City Council, after receiving a recommendation by the Planning and Zoning Commission, that the use of a uniform panel sign system maintains the aesthetic quality and character of the development, zoning district and neighborhood.

170.13 PROJECTING SIGNS.

1. Application. Projecting signs as regulated by this chapter shall include any sign, other than a building sign, which projects from, and is supported by a wall of a building or structure.

2. Construction. Every projecting sign, including the frame, braces and supports thereof, shall meet the compliance of the Building Code of the City.

3. Thickness Limitation. The thickness measured between the principal faces of any projecting sign shall not exceed twelve (12) inches.

4. Height of Projecting Signs. No part of any projecting sign shall be less than ten (10) feet above ground level, except as provided in subsection 5 of this section.

5. Location. Every projecting sign shall be at least ten (10) feet above any sidewalk area over which it is erected, and a distance not greater than two (2) feet from the wall to which it is attached, measuring from the point of the sign nearest thereto. Every projecting sign to be erected over public or private driveways or thoroughfares shall be placed not less than fifteen (15) feet above the level of same.

6. Obstructions and Traffic Hazards. Every projecting sign shall be erected in a manner which does not constitute an obstruction or traffic hazard regulated by this chapter.

7. Projection over Public Property. It is unlawful for any projecting sign to be located over public property or a public easement unless approval is granted by the City Council.

170.14 MARQUEES, AWNINGS AND CANOPY SIGNS. The term “sign” in this section applies to a marquee, awning and canopy accompanied by lettering or a logo, when projecting from a wall of a building. The area of the letters or logo encompassing the sign message incorporated upon the marquee, awning or canopy shall be applied toward the maximum building sign area permitted for the use in that zoning district.
170.15  **DIRECTIONAL SIGNS.** Directional signs shall be allowed in all Zoning Districts. The following standards and regulations shall be applied:

1. Directional signs shall not exceed three (3) feet in height.
2. The sign area of directional signs shall not exceed eight (8) square feet as calculated using Formula B as defined in Section 170.05.
3. Directional signs shall have a minimum front yard setback of five (5) feet from the right-of-way line.
4. Two freestanding directional signs intended to identify an access into or out of a lot shall be permitted per access.
5. No more than five (5) directional signs shall be allowed per property.

170.16  **FLAGS AND BANNERS.**

1. The following flags are permitted: flags of the United States, the State, the City, foreign nations having diplomatic relations with the United States, and other flags adopted or sanctioned by an elected legislative body of competent jurisdiction, provided that such flags are flown in accordance with protocol established by the Congress of the United States for the Stars and Stripes.

2. All other Banners are regulated as follows:

   A. A banner identifying a corporate, business, commercial enterprise, educational institution, or any other entity or organization is allowed provided it satisfies the following requirements:

      (1) Size shall not be greater than three (3) feet by five (5) feet.

      (2) Banner shall be flown horizontally.

      (3) Banner shall be flown in conjunction with and at the same time as a flag of the United States and the State of Iowa flown on the premises.

      (4) Banner shall be displayed on a separate flagpole located in close proximity to and no higher than the flagpoles of the United States and the State of Iowa and in no event higher than thirty (30) feet. One commercial banner shall be allowed in connection with any nonresidential lot of record.

   B. No banner of a commercial nature or purpose may be flown in a residential zone.

   C. Flags and banners flown in a residential zone for non-commercial purposes shall not be regulated by this chapter.

   D. All flags and banners shall be kept in good repair at all times.

170.17  **TEMPORARY SIGNS.**

1. Application. Temporary signs shall include any construction, real estate, political, portable or other sign, banner, pennant, streamer, inflatable signs, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard or other materials, with or without frames, intended to be displayed for a short period of time only.
2. Temporary Signs Requiring a Permit. All temporary signs, except for construction, real estate, or political issue signs, may be used for special occasions upon the issuance of a sign permit and shall meet the following regulations:

A. There shall be no more than two (2) such occasions per year; such occasions shall not exceed ten (10) days. In the discretion of the Zoning Administrator, one extension per year, of no more than twenty (20) days, may be granted for extenuating circumstances provided good cause can be shown; an example of such an event would be the grand opening for a new business.

B. There shall be no more than one temporary sign per lot; such sign shall not exceed 100 square feet and shall not be mounted above the roof parapet.

3. Temporary Signs Not Requiring a Permit:

A. Temporary construction signs not exceeding ten (10) feet in height and thirty-two (32) square feet in sign area as calculated using Formula B as defined in Section 170.05 do not require a sign permit provided such signs meet the following regulations:

1. Temporary construction signs shall be located on the lot under construction. In residential zoning districts temporary construction signs shall be located within the subdivision under construction.

2. Temporary construction signs in residential districts shall be removed within seven (7) days after the issuance of the last certificate of occupancy in the subdivision. Temporary construction signs in all other districts shall be removed within seven (7) days after the issuance of a certificate of occupancy.

3. Temporary construction signs may not be illuminated.

B. Real estate signs not exceeding twelve (12) square feet in sign area in any R-1, R-1A and R-2 zoning districts and not exceeding thirty-two (32) square feet in sign area and ten (10) feet in height in all other zones, which advertise the sale, rental, or lease of the premises upon which said sign is located only. Such real estate signs shall not be located on public right-of-way and shall be limited to one sign for each street frontage. The sign area shall be calculated using Formula B as defined in Section 170.05.

C. Political issue signs shall not be located on public right-of-way and shall not be within the vision triangle.

D. Temporary window signs, provided that such signs do not cover more than twenty-five percent (25%) of the window area. The display of temporary window signs shall not exceed thirty (30) total (but not necessarily consecutive) days per calendar year.

4. Temporary signs and banners affixed to City light and utility poles by the City shall not be regulated by this chapter. Temporary signs for community festivals or other similar events may be exempted from the provisions of this section at the discretion of the Zoning Administrator.
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ZONING – SIGN REGULATIONS

170.18 PERMITS AND FEES. It is unlawful for any person to erect, alter, or relocate within the City any sign except as otherwise specified in this chapter without first obtaining a permit from the Community Development Department and paying the fee required herein.

1. Application for Permit. Application for permits shall be made in such form as required by the Community Development Department, and shall contain or have attached thereto the following information unless such information shall be deemed unnecessary by the Zoning Administrator.
   A. Name, address, and telephone number of the applicant.
   B. Location of building, structure or lot to which or upon which the sign is to be attached or erected.
   C. Position of sign in relation to nearby buildings, structures or streets.
   D. One blueprint or drawing of the plans, specifications, and method of construction and attachment to the building or ground.
   E. Copy of stress sheets and calculations showing the sign is designed for live and dead loads and wind pressure loads in any direction in the amount required by this and all other applicable laws and ordinances.
   F. Name of person, firm, corporation, or association erecting structure.
   G. Such other information as the Zoning Administrator shall require to show full compliance with this and all other laws and ordinances of the City.

2. Permit Fees. Sign permit fees shall be paid to the City Clerk in an amount as established by resolution of the City Council.

170.19 INSPECTION. The Zoning Administrator may inspect, from time to time as deemed necessary, each sign or other advertising structure regulated by this chapter for the purpose of ascertaining whether the same is secure or insecure, and whether it is in need of removal or repair.

170.20 UNSAFE AND UNLAWFUL SIGNS. If the Zoning Administrator finds that any sign or other advertising structure regulated herein is unsafe, insecure, a menace to the public, prohibited, or is in violation of the provisions of this chapter; such official shall promptly give written notice to the permittee thereof or to the owner of premises on which the sign is located. If the permittee or owner fails to remove or alter the sign structure so as to comply with the standards herein set forth within three (3) working days after such notice, such sign or other advertising structure may be removed or altered to comply by the Zoning Administrator at the expense of the permittee or owner of the property upon which it located. However, if the owner of the sign has promptly ordered the necessary parts to repair the sign and has not received them or has promptly ordered the repair work done by an authorized erector and the erector has failed to respond within the three-day period, then a further extension of time may be granted upon a verified statement that such delay is not the result of any act of the permittee or owner of the premises. If the Zoning Administrator finds that any sign or other advertising structure regulated herein has been constructed or erected in violation of the provisions of this chapter, such official shall promptly give written notice to the owner of the premises on which the sign is located. If the owner fails to remove or alter the structure so as to comply with the standards herein set forth within three (3) working days after such notice, such sign or billboard may be removed or altered to comply by the Zoning Administrator at the expense of the owner of the property upon which it is located. The Zoning Administrator...
may refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed provided such authority is confined to the premises where the violation occurred.

170.21 **PAINTING REQUIRED.** The owner of any sign as defined and regulated by this chapter shall be required to have properly painted all parts and supports of said sign, unless the same are otherwise treated to prevent rust or decay.

170.22 **WIND PRESSURE AND DEAD LOAD REQUIREMENTS.** All signs and other advertising structures shall be designed and constructed to withstand a wind pressure of not less than thirty (30) pounds per square foot of area, or as further regulated by the Building Code of the City, and shall be constructed to receive dead loads as required in the Building Code or other ordinances of the City.

170.23 **REMOVAL OF OBSOLETE SIGNS.** Any obsolete sign now or hereafter existing shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land upon which such sign may be found within thirty (30) days after written notification from the Zoning Administrator, and upon failure to comply with such notice within the time specified in such order, the building inspector is hereby authorized to cause removal of such sign, and any expense thereto shall be paid by the owner of the building or structure to which such sign is attached.

170.24 **MAINTENANCE.** All signs and other advertising structures, together with all of their supports, braces, guys and anchors, shall be kept in good repair and in proper state of preservation and working order. The display surfaces of all signs shall be kept neatly painted or posted at all times. The Zoning Administrator, after ten (10) days’ notice to the sign or billboard owner, may order the removal of any signs or billboards that are not maintained in accordance with the provisions of this chapter and the cost assessed against the property where said sign or billboard is located. However, if the owner of the sign or billboard has promptly ordered the necessary parts to repair the sign or other advertising structure and has not received them, or has promptly ordered the repair work done by an authorized erector and the erector has failed to respond within the ten-day period, then a further extension of time may be granted, upon filing a verified statement of that such delay is not a result of any act of the sign or billboard owner.

170.25 **SIGNS NOT TO CONSTITUTE TRAFFIC HAZARD.** No sign or other advertising structure on private property as regulated by this chapter shall be erected: (a) at or near the intersection of any streets or near a private access to a public street in such a manner as to obstruct free and clear vision; or (b) at any location where, by reason of the position, shape or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device; or (c) which makes use of the words “STOP,” “LOOK,” “DRIVE-IN,” “DANGER,” or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse the motoring public. Notwithstanding the general requirements set forth in this section, no sign or other advertising structure shall be located: (i) on a corner lot in all districts, in such a manner as to impede vision between a height of two and one-half (2-1/2) feet and ten (10) feet above the centerline elevations of the affected street and within an area bounded by the street right-of-way lines of a corner lot and a straight line joining points on said right-of-way lines twenty-five (25) feet from the point of intersection of said right-of-way lines; or (ii) in all districts and one- and two-family residential lots, if erected within five (5) feet of a public right-of-way and within twenty-five (25) feet of a private access drive or adjoining building site boundary.
170.26 SIGNS ON CITY PROPERTY AND RIGHT-OF-WAY. It is unlawful for any person to paint, print or in any way affix any picture, bill, sign, signboard, poster or advertising material on any post, utility pole, fire escape, hydrant, curb, sidewalk, tree, lamppost or other structure of any kind on, or so as to overhang or protrude over, any property owned by the City or any easement of the City unless otherwise authorized by this chapter. Any sign on, or located so as to overhang or protrude over, any property owned by the City or any right-of-way easement of the City without City approval shall be forfeited to the public and subject to confiscation. In addition to other remedies hereunder, the City shall have the right to recover from the sign owner or person placing such a sign the full costs of removal and disposal of such sign.

170.27 NONCONFORMING SIGNS. Any sign or billboard in existence at the time of the adoption of this ordinance which does not conform with the provisions of this chapter shall be considered nonconforming. Any structural modifications or replacement of a nonconforming sign, not including the replacement of sign copy, shall conform to the requirements and standards of this chapter.

170.28 REVOCATION OF PERMITS. The Zoning Administrator is hereby authorized and empowered to revoke any permits issued by said official upon failure of the holder thereof to comply with any provisions of this chapter.

170.29 JURISDICTION OF BOARD OF ADJUSTMENT. The Board of Adjustment shall have jurisdiction for any requests for variances involving sign location, sign height, or sign size not consistent with this chapter. The Board shall rule on any request in accordance with Section 166.16.

170.30 JURISDICTION OF BOARD OF APPEALS. Any person aggrieved by an order, requirement, decision or determination of the Zoning Administrator in the enforcement of this chapter may, within thirty (30) calendar days thereof, appeal such action to the Board of Appeals by filing with the Board of Appeals an appeal specifying the grounds thereof. The Zoning Administrator or other designated official of the City shall forthwith transmit to the Board of Appeals all papers constituting the record upon which the action appealed from is taken. Before an appeal is filed with the Board of Appeals, the appellant shall pay to the City a fee in accordance with a duly approved resolution. Upon receipt of such an appeal, and payment of the fee, the Board of Appeals or its designated representative shall establish a date, time and place for a public hearing on the appeal and shall cause the preparation, publication, posting and distribution of a public notice of said hearing. The public hearing shall be attended by the appellant or his agent, and by the Building Official or other designated official of the City. The Board of Appeals may modify, reverse or affirm, wholly or partly, the order, requirement, decision or determination appealed from. It shall not have the power to grant exceptions or variances to the requirements of this chapter. A majority vote of the members of the Board of Appeals present at the hearing shall be necessary to reverse any order, requirement, decision or determination appealed from.
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CHAPTER 171

ZONING - SITE PLAN REQUIREMENTS

171.01 Site Plan Requirements. The requirement for the submittal of site plans shall apply to any proposed development of property, except for the construction of single-family and two-family homes on existing platted lots, and the subdivision of land in accordance with the City’s Subdivision Ordinance.

171.02 Statement of Intent. To assure that commercial, industrial, multiple family residential, and special uses in the City are developed and accomplished in a manner conforming to the requirements, standards, and regulations of this ordinance, a detailed site plan shall be submitted showing the proposed use and development of all commercial, industrial, multi-family residential and special uses for approval by the City Council after review and recommendation by the Planning and Zoning Commission.

171.03 Submittal and Review Procedure. Whenever any person wishes to build or construct upon any tract, lot or parcel of land within the City, and located in the CO, C-1, C-2, C-3, PC, IC, MUC, M-1, or M-2 Zoning Districts, or special uses in any Zoning District, a site plan shall be submitted for approval by the City Council after review and recommendation by the Planning and Zoning Commission. The procedure as outlined in this section shall be applicable.

1. Fifteen (15) copies of the site plan (in a scale not less than 1" = 100') shall be submitted to the Zoning Administrator along with a zoning certificate application. Prior to an official submittal of a site plan for review by the Planning and Zoning Commission, the developer may submit a concept and site plan for initial review by the Zoning Administrator for comment.

2. The Zoning Administrator shall refer a copy of the site plan to pertinent City departments for their review and comment regarding the site plan’s compliance with the ordinances of the City, its effects upon the City’s municipal utilities, public street system and conformance to this zoning ordinance and all other ordinances of the City.

3. The Zoning Administrator shall also forward a copy of the site plan to each member of the Planning and Zoning Commission. The Planning and Zoning Commission shall, after receiving a report from the Zoning Administrator, review the site plan for conformity with the regulations and design standards contained in this ordinance, and may confer with the developer on changes deemed advisable in such site plan.

4. The Planning and Zoning Commission shall forward its recommendation either for approval or disapproval of the site plan to the City Council within forty-five (45) days of the date of the submission of said site plan.
5. The Planning and Zoning Commission may, in its discretion, hold a public hearing on the site plan of the proposed development and prescribe the notice thereof and to whom such notice shall be given.

6. The City Council shall, upon receipt of the recommendation of the Planning and Zoning Commission, either approve or disapprove the site plan of the proposed development.

7. No building permit for any structure within any district within which a site plan is required shall be issued until the site plan has been approved as provided herein.

171.04 SITE PLAN INFORMATION. The purpose of the site plan is to show all information needed to enable City staff, the Planning and Zoning Commission and the City Council to determine if the proposed development meets the requirements of this ordinance and other City ordinances.

1. Information Required. The site plan shall include the following information concerning the proposed development:

   A. Names of all persons having an interest in the property, legal description of property, point of compass, scale, and date.
   
   B. Applicant’s name, address, project location, proposed land use and present zoning, location and names of adjoining subdivisions, the numbers of the adjoining lots therein and the names and addresses of adjoining landowners.
   
   C. If the applicant is other than the legal owner, the applicant’s interest shall be stated.
   
   D. Name and address of persons who prepared the site plan.

2. Required Illustrations. The site plan shall clearly set forth the following information concerning the proposed development:

   A. Property boundary lines, dimensions, and total area of the proposed development.
   
   B. Existing and proposed contour lines of the proposed development and fifty (50) feet beyond the boundaries of the proposed development at intervals of not more than two (2) feet. If substantial topographic change is proposed, the existing topography of the development and of the surrounding area shall be illustrated on a separate map, and the proposed finished topography shown on the site plan.
   
   C. The availability, location, size, and capacity of existing utilities, and of proposed utilities.
   
   D. The proposed use of building materials, location, size, height, shape, use, elevation, building sign type, and illustration of all buildings or structures in the proposed development.
   
   E. The total square footage of building floor area, both individually and collectively in the proposed development.
F. Existing buildings, rights-of-way, public sidewalks, street improvements, railroads, utility easements, drainage courses, streams and wooded areas.

G. The number of dwelling units, offices, etc. required to determine ordinance compliance.

H. A vicinity sketch showing adjacent existing land uses within five hundred (500) feet of the property.

I. Location, number, dimensions and design of off-street parking in the proposed development, including:

1. Driveways, islands, and planters.
2. Striping and curbs.
3. Loading facilities.
4. Type and location of lighting.

J. Open spaces, yards, recreational areas, public sidewalks, walkways, driveways, outside lighting, walls, fences, monuments, statues, and other manmade features to be used in the landscape of the proposed development.

K. Facilities for the collection and disposal of garbage and trash, and screening structures.

L. Walls, fences or other artificial screens to be used as buffers shall be shown in elevation and prospective with proposed height and structural material indicated.

M. Traffic considerations or utility capacities and all other considerations pertinent to the proposed use may be requested for illustration or statistical purposes.

N. Freestanding identification signs; location, setback, dimensions, height and illustration.

O. Location and type of all plants, grass, trees, or ground cover to be used in the landscape. Landscaping to be used for screening purposes shall be illustrated with the size and exact names of plants, shrubs or trees to be planted clearly indicated. The planting location shall not adversely affect utility easements or service lines. On all site plans the following requirements shall be met:

1. Implementation. The landscaping plan shall be submitted for approval as part of site plan submittal. The landscaping plan is to show the following information in accordance with the requirements of Section 166.32(3), Landscaping Required:
   a. Location of trees and shrubs
   b. Size and species of trees and shrubs
   c. Number of each size and species of tree and shrub
   d. Type of ground cover and form of erosion control
(2) Approval of Landscaping. Landscaping is to be in-place at the time an occupancy permit is approved. Should completion of landscaping be delayed because of the season of year, a temporary occupancy permit may be issued if the developer posts a bond or other acceptable guarantee in the amount of the landscaping as completed. When filing a site plan, a developer may submit a list of alternate or substitute species from the permitted or established list to be used should the preferred material not be available when needed and required.

(3) Maintenance. All landscaping, buffering and screening shall be maintained at all times to conform to the regulations established in this chapter. Landscaping which is not maintained in a manner consistent with this chapter shall be replaced, as follows:

a. Replacement includes, but is not limited to replacing plants damaged by insects, soil conditions, disease, vehicular traffic, vandalism, and acts of God.

b. Required landscaping shall be replaced with equivalent vegetation if it is not living within one (1) year of a certificate of occupancy.

c. Existing landscaping which was preserved shall be replaced with new landscaping if it is not living within two (2) years of a certificate of occupancy.

d. Landscaping as part of a buffer shall be maintained as long as the buffer is required by this ordinance.

e. Replacement landscaping shall be installed within thirty (30) days following notification by the Zoning Administrator that a violation of this chapter has occurred, or proper guarantees provided.

171.05 DESIGN STANDARDS. The standards of design are intended as minimum requirements so that the general arrangement and layout of the development requiring the site plan may be adjusted to address a variety of site conditions.

1. All proposed developments for which site plans are required shall conform to the Comprehensive Plan of the City, the provisions of this Zoning Ordinance, the Subdivision Ordinance of the City, if applicable, and all other applicable City ordinances and statutes and regulations of the State of Iowa. All projects shall dedicate right-of-way for major streets designated in the Comprehensive Plan.

2. The proposed development shall have such entrances and exits upon public streets properly spaced and designed as are necessary for safety and the general welfare, and shall have such interior drives as are necessary for free movement of emergency vehicles; and shall have such pedestrian walkways as are necessary for safety and general the welfare. The following are guidelines for consideration in individual site plan requests. The case-by-case review would take into consideration existing entrances, the width of the property, and the traffic generation characteristics of the uses permitted in the district.
A. The following access guidelines shall be observed in all Districts. All distances are to be measured from centerline of entrance or roadway cross section.

<table>
<thead>
<tr>
<th>Functional Street Classification</th>
<th>Entrance Spacing</th>
<th>Intersection Spacing</th>
<th>Separation of Entrance From Intersection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Major Arterial</td>
<td>300 feet</td>
<td>600 feet</td>
<td>150 feet</td>
</tr>
<tr>
<td>Minor Arterial</td>
<td>300 feet</td>
<td>450 feet</td>
<td>100 feet</td>
</tr>
<tr>
<td>Major Collector</td>
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</tr>
<tr>
<td>Minor Collector</td>
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</tr>
<tr>
<td>Local</td>
<td>60 feet</td>
<td>300 feet</td>
<td>15 feet</td>
</tr>
</tbody>
</table>

B. Opposing entrances or public streets shall align or be offset (d) a minimum distance of 150 feet on arterial and major collector streets.

C. In areas where existing lots and driveway entrances do not currently satisfy the guidelines presented, other protective measures, such as joint entrances shall be utilized.

D. Any project which contains 80 dwelling units or 1,000 average daily trips 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.

3. The proposed development shall be designed with a proper regard to topography, surface drainage, natural drains and streams, wooded area, and other natural features which will lend themselves to proper, harmonious and attractive development of the site.

4. The proposed development shall be designed with adequate water mains, provisions for sanitary sewerage facilities, storm sewer management facilities and flood control, in accordance with the ordinances and regulations of the City and
5. The proposed development shall have such buffers, screen fences and landscaping and shall be designed, and the buildings and improvements located, in such a manner as to not unduly diminish or impair the use and enjoyment of adjoining or surrounding property. The proposed development shall take into consideration, among other items and concerns, the adverse affects of automobile headlights, illumination of perimeters or separate yards or parking lots, the attenuation of noise, the appearance of refuse; and an adequate supply of light and air.

6. The proposed development shall not unduly increase the public danger of fire or diminish the public safety, and shall be designed to adequately safeguard the health, safety, and general welfare of the public and of persons residing and working in the development and in the adjoining or surrounding property.

7. The proposed development and all structures therein shall be designed as required by Section 166.35, and in such a manner as to create a quality environment and to such end shall be architecturally and aesthetically harmonious and attractive.

171.06 AMENDMENTS TO APPROVED SITE PLANS. An approved site plan placed on file may be amended with respect to location, size, design and conformity of buildings and other improvements, provided that the amended site plan conforms to the general use regulations, performance standards, and provisions of the district in which located. Amended site plans shall be reviewed by the Planning and Zoning Commission and approved by the City Council.

171.07 EXPIRATION OF APPROVAL. All site plan approvals shall expire and terminate 365 days after the date of City Council approval unless a building permit has been issued for the construction provided for in the site plan. The City Council, for reasons of general City health and welfare, may set an expiration date at 180 days. The City Council may, upon written request by the developer, extend the time for issuance of a building permit for 60 days. In the event the building permit for construction provided for in a site plan expires or is canceled, then such site plan approval shall thereupon terminate.

171.08 FILING FEES. The party or parties submitting a site plan to the City shall pay a filing fee to the City Clerk in an amount as established by resolution of the City Council.

171.09 ADMINISTRATIVE APPROVAL. Administrative approvals are determinations made by the Zoning Administrator, where the entitlement requested is minor in nature, or staff has been granted authority to approve site plan amendments. Administrative approvals are intended as a process to allow less formal review of projects that do not generate substantial impacts, or allow minor adjustments or modifications to previously approved entitlements that do not involve substantial changes to the project, do not require public input, and are in conformance with all Zoning Ordinance regulations.

1. The Zoning Administrator may grant an administrative approval to an approved site plan/permit. The adjustment may govern only the following measurable design/site considerations, which in no case would result in a reduction from any minimum standard outlined in this Zoning Ordinance or the previous directives of the City Council. Administrative approvals shall include:
   A. Location, height, and style of walls, fences, and structures;
B. Reconfiguration of architectural features, including colors, and/or modifications of finished materials that do not alter or compromise the previously approved theme;

C. Lighting location and fixture type;

D. Location of trash enclosures;

E. Location and construction of on site sidewalks;

F. Location, type, and size of plantings, provided the modification would have the same effective cover and screening;

G. Minor relocation or addition of driveways or parking spaces.

2. Any administrative approval request which exceeds the prescribed limitations outlined in this section or a site which has been the subject of two (2) previous requests for an administrative approval shall require a site plan amendment and a subsequent review by the Planning and Zoning Commission and approval by the City Council. Nothing contained herein shall be construed to allow the Zoning Administrator to vary the provisions of any statute, ordinance, City policy, or previous directives of the City Council. The Zoning Administrator shall have the discretion to refer any administrative approval request to the Commission for its review and action.

3. Filing Fees. The party or parties submitting an application for an administrative approval shall pay a filing fee to the City Clerk in an amount as established by resolution of the City Council.

4. Required Findings. Administrative approvals shall only be granted if all of the following findings are made; or if conditions and limitations, as the Zoning Administrator has advised, are imposed to allow them to make said findings. It shall be the responsibility of the applicant to prove to the satisfaction of the Zoning Administrator, that the following findings can be made:

A. That the proposed development or use is consistent with the Johnston Comprehensive Plan.

B. That the proposed development or use is compatible with property uses within the zone and general area.

C. That all applicable standards and conditions have been imposed which protect the public health, safety, and welfare.

D. That there is adequate on site and off site public infrastructure to support the proposed development.

E. That the proposed development or use has met all the requirements contained in this code.

(Ord. 830 – Mar. 11 Supp.)
CHAPTER 172

ZONING – SPECIAL USE PERMITS

172.01 APPLICATION. The regulations set forth in this chapter, or elsewhere in this Zoning Ordinance, shall apply to the unclassified and special uses listed in this chapter.

172.02 STATEMENT OF INTENT. It is recognized that certain uses possess characteristics of such unique and special form as to make impractical their being included automatically in any classes of use as set forth in the various zoning districts established by this ordinance. Therefore, the Board of Adjustment as provided for in this section shall approve these uses.

1. Board of Adjustment Approval of special use permits. The Board may approve or disapprove a special use permit application as submitted or may require that the applicant modify, alter, adjust, or amend the proposal. The Board may take those actions it deems necessary to preserve the intent and purpose of this ordinance and promote public health, safety, morals, and the general welfare. The Board may impose any conditions as may be reasonably required to assure conformance with this chapter. If the approval of a site plan is not required as specified in Section 171.02, the application for a special use permit shall be reviewed by the Planning and Zoning Commission prior to consideration by the Board. A special use permit may not be granted for a use that is not specifically permitted within this section or this chapter.

2. Any special uses permit granted under the terms of this chapter shall not be altered or changed in a manner inconsistent with its approval as determined by the Zoning Administrator. Any proposed change or alteration shall be reviewed and approved as provided for in this section. If the special use or the person or entity granted the permit becomes a nuisance, exhibits a pattern of violating the conditions set forth in the permit, or exhibits a pattern of violation of the laws of the State of Iowa or ordinances of the City, the special use permit may be revoked.

3. Procedures for Revocation. If the Zoning Administrator, another official of the City, or an elected or appointed representative of the City feels that the conditions of approval or the operation of the special use is not in accordance with this chapter, such person may request that the Board of Adjustment consider revocation proceedings. The Board may consider such revocation at a public meeting following notice as prescribed in Section 166.15. Such notice shall include the owner of record and the operator of the business. After hearing and action by the Board, if it is determined that the special use permit is invalid, the use shall cease. Its operation shall be considered a nuisance and subject to the penalties as established therefor.

172.03 SPECIAL USES. The following uses are permitted upon the issuance of a special use permit and such uses may be authorized in any zone in addition to those zones in which use may be specifically listed as a special use.
1. Accessory or branch structures and facilities for public utilities and public service uses, including water reservoirs and tanks, pumping stations, telephone exchanges and power and transformer stations, but not including equipment storage yards and garages, etc. which are considered commercial and industrial uses.

2. Accessory living quarters, subject to the bulk regulations for principal structures of the zoning district in which the quarters are to be located, but no less than the height and setback requirements for District R-2.

3. Parks.


5. Nurseries, greenhouses, and truck farms, orchards, and aquaculture, with retail sales of the goods produced on the premises. Agricultural crops and usual enclosed accessory agricultural buildings and structures provided that no offensive odors are created and provided further that no retail sales shall be permitted on the premises. Site plan and other requirements of the zoning ordinance may be waived by the Board of Adjustment provided that waiving such requirements will not adversely affect other uses on the site or any adjacent property.

6. Recreation, refreshment and service buildings in public parks, playgrounds and golf courses.

7. Electrical and natural gas transmission and regulating facilities.

8. Excavation for artificial lakes, sand, soil, gravel, rock or mineral quarries, borrow pits, or mining operations.

9. Radio and television transmitters and satellite dish antennas with greater than a twelve-foot diameter or height.

A. In the event of a special use permit application for a ham radio antenna, radio and television transmitters, and satellite dish antennas, a site plan shall be submitted to the City that includes the height of the structure, dimensions of the property, location of the structure on the property, location and approximate height of overhead power or transmission lines, and location of principal and accessory structures on the applicant’s property as well as surrounding properties. Any ham radio antenna, radio or television transmitter and satellite dish antenna must be located on a lot or property so that if it falls, it will not fall on any neighboring structure which is not owned by the person operating and owning the ham radio antenna, radio or television transmitter and satellite dish antenna. Any ground based ham radio antenna must be surrounded by a six (6) foot non-climbable fence constructed of wood with smooth side to the outside and no more than one-inch separation between boards with a lockable gate.

(Ord. 820 – Aug. 10 Supp.)

B. In the case of ham radio antennas, there shall be proof of a current ham radio license provided to the Zoning Administrator each year from date on which the Board granted the special permit. If such license is not up to date or the use is abandoned for a period of six (6) months, then the provisions of Section 166.11 shall apply with the two-year stipulation not applying as stated in said Section 166.11 and the owner of record shall bear the cost of removing the structure.

10. Windmills or wind generators greater than twelve (12) feet in height.
11. Sewage disposal plant or lagoon.

12. Indoor shooting ranges providing such use is specifically excluded from any R District.  

13. Golf courses and golf driving ranges.

14. Tourist parks and campgrounds.

15. Communication tower and wireless equipment. The Telecommunications Communications Act of 1996 prohibits the City from establishing policies that discriminate against one or a group of telecommunication providers in favor of another or another group of providers or potential providers. The following criteria will be applied consistently to all telecommunication providers that request a special use permit.

   A. In order to minimize the overall numbers of towers in the City, providers can be required to co-locate and enter into co-location agreements.

   B. Towers shall be safe and blend into their environment tower design shall be consistent with site characteristics.

   C. Placement of towers and wireless equipment in highly populated areas shall be minimized. Therefore, residential locations will be approved only as a last resort.

   D. Additional requirements for communication tower and wireless equipment: The following additional documents or information must be provided:

      (1) Typical specifications for proposed structures and other equipment, including description of design characteristics and material.

      (2) Include on site plan, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking fences, landscape plan, and existing land uses on adjacent property.

      (3) Current map or update for an existing map on file showing locations of applicant’s antennas, facilities, existing towers, and proposed towers which are reflected in public records, serving any property within the City.

      (4) Report from a structural engineer showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANS/EIA/TIA 222, latest revision standards.

      (5) Identification of the owners of all antennas and equipment to be located on the site.

      (6) Written authorization from the site owner for the application.

      (7) Evidence that a valid FCC license for the proposed activity has been issued.

      (8) A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.
(9) A written agreement to remove the tower and related equipment within 180 days after cessation of use that is joined in by the landowner.

E. Any communications facilities located on the roof of an antenna support structure must be set back at least one foot from the edge of the roof of the structure. This setback requirement shall not apply to: (i) communications facilities located above the roof of the structure if the facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the City; or (ii) camouflage antennas that are mounted to the exterior of the antenna support structures below the roof, but do not protrude more than 24 inches above said antenna support structure.

F. It shall be established that the proposed communications tower or equipment will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant’s technical design requirements.

G. It shall be established that the proposed tower and equipment cannot be accommodated and function as required by applicable regulations and applicant’s technical design requirement without unreasonable modifications on any existing structure or tower under the control of the applicant.

H. It shall be established that the use of and frequencies emitted from the tower and related equipment will not interfere with the transmissions of law enforcement agencies, fire fighting vehicles, public works communications, or emergency or disaster relief agencies.

I. Additional information as required, to determine that all applicable zoning regulations are met.

16. Outdoor storage and display within the C-1 and C-2 zoning districts. Such outdoor storage or display shall not take up more than 25% of the area of the lot and shall not take place in building setback area.

172.04 REQUIRED CONDITIONS.

1. Required Findings for Approval. The approval of a special use permit shall be based upon the Board of Adjustment making the following findings.

A. The authorized use shall comply with the minimum requirements of the district in which it is located.

B. The authorized use shall be on a site of adequate size and shape to accommodate the use and all yards, spaces, walls and fences, parking, loading, landscaping and other features required to assure compatibility of the use with its surroundings.

C. The proposed improvements shall give due consideration to their siting and employ landscaping, fencing and setbacks to minimize impact upon surrounding properties.

D. The authorized use shall be served by adequate utilities, drainage and other necessary improvements.
E. The authorized use shall be served by streets and highways that are adequate in width and pavement type to carry the quantity and type of traffic generated by the use to not unduly increase congestion and provide safe access.

F. The authorized use shall be compatible with the neighborhood and surrounding use of land by its construction, architecture, and site improvements.

G. The authorized use does not conflict with any ordinance of the City or law of the State of Iowa regulating nuisances, pollution or hazardous occupation.

H. The authorized use is in conformity with the Comprehensive Plan, and any other applicable City ordinances or regulations. Furthermore, the authorized use will not impede the normal and orderly development and improvement of the surrounding property as envisioned in the Comprehensive Plan.

I. The issuance of the special use permit will not endanger, jeopardize or harm the health, safety or welfare of the properties and the community.

2. Required Site Plan and Statistical Information. The request for authorization of a special use shall be accompanied by a site plan in compliance with Chapter 171 of this zoning ordinance, as well as a brief technical report, prepared by a qualified professional person, which shall outline and illustrate the provisions and methods for the abatement of undesirable effects on the public, which maybe peculiar to the use, such as but not limited to the following:

A. Traffic intensity and control.

B. Excessive lighting.

C. Noise level.

D. Hazardous conditions to spectators, participants, trespassers, or neighbors.

E. Pollution of air, water, or earth.

172.05 RESTRICTIONS.

1. Authorization for a special use permit shall not be granted if the following conditions are not met.

A. Large outside assemblages of more than one hundred (100) people shall not be located less than three hundred (300) feet from any existing dwelling site.

B. Uses shall emit light and noise levels consistent with those found commonly in the district where located.

C. Uses involving the large assemblages of more than one hundred (100) people shall not be located in the vicinity where the street system is inadequate to provide for the increased traffic.

D. Exterior lighting shall not be located in a vicinity where such lighting would create a glare and be hazardous to air or ground trafficway and such uses shall not be located less than a distance required to reduce the light...
intensity to normal residential street lighting intensity at any R District boundary.

2. The following restrictions shall be complied with:
   A. Uses of a utility or public service which is located within an R, C, PC or IC District for the benefit of improved public service shall be screened from public view by buffer walls or landscape buffer in accordance with Section 166.34.

172.06 FILING FEES. The party or parties submitting an application for a special use permit shall pay a filing fee to the City Clerk in an amount as established by resolution of the City Council.
CHAPTER 173

ZONING – TEMPORARY USES

173.01 TITLE. This chapter shall be known as the “Temporary Use Ordinance” of the City of Johnston, Iowa.

173.02 DEFINITIONS. For the purpose of this chapter, the following terms shall have or include the following meanings:

1. Temporary Use: Any sales in any nonresidential district including, but not limited to the sales of fresh fruits/vegetables, baked goods, and hand crafted items.

2. Temporary Structures: Any constructed or erected structure, including but not limited to a shed, building, vehicle, trailer, tent or enclosure of any kind used for commercial or business purposes which any person or business intends to place on the same lot with or on any lot adjacent to, any permanent structure used for business or commercial purposes.

3. Garden Center: A place of business where retail and wholesale products and produce are sold. The items sold may include, but is not limited to plants, nursery products, potting soil, and gardening tools and utensils.

4. Produce Stands: A temporary structure used for the display and sale of raw fruits and vegetables.

5. Food/Beverage Stand: A temporary structure used for the display and sale of prepared food and beverages.

173.03 PURPOSE AND INTENT. To regulate in general, temporary uses on private property, public property, facilities, parks, sidewalks or streets to require a permit, known as a “Temporary Use Permit”. These regulations are intended to establish criteria and standards under which limited duration temporary uses may be allowed on a property:

1. To allow certain uses and activities on an interim of limited basis that would not be allowed on a permanent basis within the zoning district.

2. To establish minimum standards for the operation of temporary uses in a manner that will provide the health, safety, and welfare of the patrons, employees, the general public, etc., that may utilize or be affected by the establishment of the temporary use.

173.04 USES EXEMPT FROM TEMPORARY USE PERMITS.

1. Produce stands that meet the following conditions:
CHAPTER 173  
ZONING – TEMPORARY USES

A. Maximum Space.
   (1) The temporary structure and sales area shall not exceed more than two parking spaces or 360 square feet.

B. The site area shall be cleaned of debris, temporary structures, and any other objects associated with the temporary use at the end of each business day.

C. No sign permit is required for temporary signage, provided the following conditions are met:
   (1) Sign shall not be in the right of way.
   (2) The sign shall not exceed 12 square feet in total size.

D. The vendor shall acquire permission from the property owner prior to any temporary use on the property.

E. Produce stands shall conform to the requirements set forth in Section 173.05.

173.05 GENERAL REGULATIONS. The following regulations apply to all temporary uses:

1. Permitted Zones: all non-residential zoning districts.

2. No temporary use shall exceed a period of more than six months of a twelve month period, unless otherwise specified by the Zoning Administrator.

3. All temporary uses shall be on paved surfaces, but not on sidewalks, trails, or within the public right-of-way.

4. All temporary structures shall conform to the zoning setback requirements or as directed by staff. Temporary structures fewer than three hundred (300) square feet may be allowed within the front yard setback subject to approval of the Zoning Administrator.

5. The proposed temporary use shall not affect the driveway access or traffic circulation on the property.

6. The applicant shall provide, as determined by the Zoning Administrator, adequate facilities for disposal of trash and waste, e.g. grease, associated with the temporary use.

7. Permanent sanitary facilities located within an adjacent building shall be made available to all employees of the activity during its operational hours, as approved by the Zoning Administrator, in concurrence with the county health department, unless stipulated otherwise in this chapter.

(Ord. 865 – Aug. 12 Supp.)

173.06 TEMPORARY USE REGULATIONS. A permit may be issued for temporary uses when the following criteria are met:

1. Permitted Temporary Uses.
   A. Produce stands that do not meet the qualifications set forth in Section 173.04 to be exempt.
B. Garden Centers.

(1) Maximum Square Footage. Site-by-site basis.

(2) Restrictions of Merchandise and Products. This use is limited to the display of green goods, i.e., plants, and associated garden products determined to be consistent with the intent of a garden center (may be extended to the sale of Christmas trees), with the approval of the Zoning Administrator.

(3) Safety Standards. In order to promote the safety of the patrons of these facilities, the following shall be required:

   a. All sales areas shall be separated from vehicular uses by the placement of a fence or barrier acceptable to the Zoning Administrator to prevent pedestrian and vehicular conflicts.

   b. Temporary drive aisles shall be maintained at a minimum of twelve feet in width for one-way traffic and twenty-four feet in width for two-way traffic. Barriers, fencing, or some other physical markers shall clearly inform drivers at the end of the parking area and the start of the drive aisle. A clear line of sight shall be maintained at the entrance and exit of the temporary drive aisles.

   c. Vehicle loading areas shall be located in an area that minimizes pedestrian and vehicle conflict and provides for the safe loading of merchandise and vehicles access to and from the traffic lanes to the loading area, preferably without backing movements.

C. Food/Beverage Stands.

(1) Maximum Space. Three hundred sixty (360) square feet.

(2) Health Standards and Licensing. The applicant must obtain licensing, liquor permits, certificates of inspection, or any other documentation necessary to comply with all applicable requirements of the state, county, or municipality regarding health standards:

   a. Water Service. The structure used for dispensing of food and beverage shall provide self-contained hot and cold running water with appropriate holding facilities of wastewater.

   b. Wastewater Disposal. Any wastewater shall be collected and disposed in a manner acceptable to the City and shall be explained in the application for a permit.

2. The site area shall be cleaned of debris, temporary structures and any other objects associated with the temporary use within three (3) days after the termination of sales.

3. All signage associated with temporary uses shall comply with the regulations of Chapter 170 (Sign Regulations) of the City’s Zoning Ordinance.
4. The number of additional parking spaces required and the location of such shall be determined by the Zoning Administrator. The maximum number of permanent parking spaces allowed to be used for operation of an extended use shall not exceed twenty percent (20%) of the parking on a site plan that was approved by the City to be counted toward the allowable size of the activity or twenty percent (20%) of the site area, whichever is more restrictive.

5. Proof of ownership or a signed letter from either the property owner or their authorized representative, for the property on which the activity is to take place, shall be presented at the time the temporary use permit is requested.

6. A plan of the layout of the proposed temporary use shall be submitted to the Community Development Department with the application, to be reviewed and approved by the Zoning Administrator. The layout plan shall identify the following:
   A. The area on the site proposed to be utilized as part of the temporary use and associated sales area.
   B. Proposed modifications to the traffic patterns and methods proposed to notify patrons and identify the temporary traffic pattern changes, i.e., signage, traffic cones, fencing and barriers, etc.
   C. Proposed vehicle loading zone.
   D. Proposed temporary barriers or corral with an architectural elevation, photo or sketch of the barriers’ proposed construction.
   E. Location of electrical connection and water connection, if applicable.

173.07 OTHER TEMPORARY USES. Any other temporary use, for the sale of goods and services, that has not been addressed previously in this chapter. A permit may be issued when the following criteria are met:

   1. All other temporary uses shall conform to the requirements set forth in Sections 173.06.2 thru 173.06.5.
   2. All applicants shall be responsible for submitting a site plan following the requirements set forth in Chapter 171 of the Johnston revised ordinances of 2007. Including review and approval by City Council.
   3. Maximum Space. Three hundred sixty (360) square feet.

173.08 CONDITIONS OF APPROVAL. The Zoning Administrator may impose such conditions on a temporary use permit as is necessary to meet the purposes of this chapter and to protect the public health, safety, welfare and adjacent uses. Conditions which may be imposed may include, but are not limited to:

   1. Yard setback and open space requirements.
   2. Parking
   3. Fences, walls or other screening.
   4. Signs
   5. Vehicular and pedestrian ingress and egress.
   6. Property maintenance during the course of the activity.
   7. Control of illumination, noise, odor, vibration, or other nuisances.
8. Hours of operation.

173.09 FEES. Temporary use permit fees shall be paid to the City Clerk in an amount as established by resolution of City Council.

173.10 VIOLATIONS AND PENALTIES. The operation of a temporary use is privilege allowed by this chapter. Failure to maintain a temporary use in compliance with the conditions of approval and the regulations of this chapter may be punished as set forth in Chapter 3 Municipal Infractions of the City Code of the City of Johnston. A Temporary Use Permit may be revoked and terminated at any time by order of the Zoning Administrator, Fire Chief, Police Chief, Building Official or their designees if the temporary use is deemed as being a life safety hazard towards pedestrians, vehicles or property, or if the temporary use fails to comply with the terms of the permit or other City ordinances.

(Ch. 173 - Ord. 835 – Mar. 11 Supp.)
[The next page is 1301]
CHAPTER 180

SUBDIVISION REGULATIONS

180.01 Purpose. In accordance with the Comprehensive Plan, the City of Johnston has adopted a Zoning Ordinance to assist in controlling the future development of the City by regulating the use of land, size of lots, height and bulk of buildings, size of yards and open spaces around buildings, density of population, and the locations and uses of buildings and structures for residential, commercial, industrial and other purposes. The subdivision of land must be coordinated with the Comprehensive Plan and the Zoning Ordinance for the purpose of guiding future development of the City as outlined in the Plan. Subdivision Regulations prescribe the way land is to be divided and made ready for development. The review and approval of subdivisions under this chapter shall also preserve and enhance the development of neighborhoods as envisioned in the Comprehensive Plan and incorporating amenities of the highest standards. It is essential to establish minimum standards for design and development that will provide for future services and accurate records while meeting public safety, health and general welfare requirements.

180.02 Jurisdiction. This chapter is in accordance with the provisions of Chapter 354 of the Code of Iowa, and amendatory acts thereto, governing the subdivision of all lands within the corporate limits of the City, and Section 354.9 of the Code of Iowa, governing subdivision of all lands within two (2) miles of the corporate limits. The regulations contained herein shall apply to the subdivision of a lot, tract or parcel of land into a lot or other division of land for the purpose of sale, transfer or building development whether immediate or future, including the replatting of land or lots. They shall also apply to any situation where there is a dedication of streets, alleys, easements or land for other public use. No plat or subdivision shall be officially recognized by the City until all provisions and approvals set forth in these regulations have been met. The Council shall not permit any public improvements over which it has any control to be made or any money expended for improvements in any area that has been subdivided or upon any street that has been platted after July 11, 1974, unless such subdivision or street has been approved in accordance with the provisions contained herein.
The Building Official shall not issue permits for any structure located on a lot in any subdivision, the plat of which has been recorded after July 11, 1974, and not approved in accordance with the provisions contained herein.

**180.03 DEFINITIONS.** For the purpose of this chapter, certain terms and words are defined as follows:

1. “Alley” means a public right-of-way, other than a street, twenty feet or less in width, affording secondary means of access to abutting property.
2. “Auditor’s plat” means a plat prepared at the request of the County Auditor to clarify property boundaries for the purposes of assessment and taxation.
3. “Block” means an area of land within a subdivision that is entirely bounded by streets and the exterior boundary or boundaries of the subdivision.
4. “Building line” means a line on a plat between which line and public right-of-way line no buildings or structures may be erected.
5. “Commission” means the Planning and Zoning Commission of the City.
6. “Cul-de-sac” means a dead-end street being terminated by a vehicular turnaround.
7. “Department” means the Community Development Department of Johnston, Iowa.
8. “Director” means the Community Development Director of Johnston, Iowa.
9. “Easement” means a right-of-way granted for the purpose of limited private, public and quasi-public use over, across, under or through private land.
10. “Lot” means a portion of a subdivision or other plot or parcel of land which is, or may be in the future, offered for sale, conveyance, transfer or improvement.
11. “Major street” means a street, other than a local service street, as designated on the Comprehensive Plan of the City.
12. “Plat” means a map, drawing, or chart representing a proposed subdivision of land submitted by the owner with intent to record.
13. “Proprietor’s plat” means a plat submitted by the owner of the land being platted or by said owner’s agent or other private entity acting with the consent of the owner.
14. “Residential street” means a local service street used primarily for access to abutting property.
15. “Subdivider” means the owner or owners of property to be subdivided, or their duly authorized representatives.
16. “Subdivision” means the division of a lot, tract or parcel of land into two or more lots, parcels or other divisions of land for the purpose of immediate or future sale or transfer or building development. The term includes resubdivision and when appropriate to the context relates to the process of subdividing or to the land subdivided. However, the sale or exchange of parcels of land to or between the owners of adjacent platted lots, where such sale or exchange does not create any additional lots, is not considered a subdivision but shall be subject to provisions for a minor property transfer.
180.04 CHANGES AND AMENDMENTS. Any regulation or provision of this chapter may be changed and amended from time to time by the City Council; provided, however, such changes and amendments shall be referred to the Commission for their review and recommendation. The Council shall conduct a public hearing on the amendment and provide notice at least 7 days prior to the meeting.

180.05 GENERAL PROCEDURES. To obtain final approval of a proposed subdivision by the Commission and the Council, the owner shall submit separate applications for a preliminary plat and a final plat. The Director shall make available application forms, schedules, checklists, number of copies required, and other information necessary to make an application. The Council shall establish guidelines for the processing of applications and establish application fees, which will be available from the Director. All accompanying material and associated fees must be submitted with any application identified in this chapter to the Department before it will have been considered officially received.

180.06 PRELIMINARY PLAT SUBMITTAL. It is advisable that the applicant or representative of the applicant meet with the Department to discuss the feasibility and design of the proposed development prior to submitting an application. If the subdivider elects to proceed, the subdivider shall submit the preliminary plat and the required supplemental material to the Department. The preliminary plat review shall determine if the proposed subdivision will meet the design standards contained within this Code of Ordinances and the principles of the Comprehensive Plan.

1. Upon submission of an application, the Department may arrange for a development review meeting at which concerned departments and agencies shall be invited to attend and provide their comments on the proposed subdivision.

2. Also upon submission of an application, the Department may notify adjacent property owners and invite them to obtain information and make comments regarding the proposed platting.

3. Planned Unit Developments may require a preliminary plat if the Master Plan approval material is inadequate or out-of-date.

180.07 MINOR SUBDIVISIONS. No separate preliminary plat approval is required for a minor subdivision. Therefore, the procedures for the approval of the final plat would be applicable. The information presented with an application shall satisfy the requirements of the preliminary and final plat. A proposed subdivision may qualify for review as a minor subdivision if the following criteria are met:

1. No public street extension and only minor or no public improvements are required to serve any new lot created.

2. Where it is determined that the proposed division of land is in conformance with the adopted Comprehensive Plan, the requirements of this chapter, and other policies and ordinances of the City.

In order to make an application for a minor subdivision, a pre-application meeting must be held and the Director shall make a finding that the above criteria are applicable. The Director shall also determine what information must be contained on the preliminary and final plat maps submitted, if different from the information required for a normal subdivision application.
180.08 INFORMATION REQUIRED ON PRELIMINARY PLATS. The application shall be sufficient to show all facts needed to enable the City to determine whether the proposed layout of the land in question is in accordance with all requirements. The preliminary plat shall be complete and accurate in accordance with the preliminary nature of the proposed plat, and substantial enough to support the need for the proposed improvements.

180.09 PRELIMINARY PLAT APPLICATION REVIEW. The Department shall report a summary of the City departments and agencies commenting and where appropriate will attach each departmental review in the form in which it was received. The Department shall schedule a time and place so the Commission can consider the proposed subdivision.

180.10 COMMISSION ACTION ON PRELIMINARY PLAT. After receiving the Department’s report, the Commission shall examine the preliminary plat and accompanying material for conformity with this chapter. The Commission may confer with the subdivider on changes deemed advisable and the extent of the improvements to be made. The Commission shall make a recommendation to approve, conditionally approve, or reject such plat within sixty (60) days after the date of receipt by the Department. The Department shall transmit the recommendation of the Commission and the Department’s report to the City Council and subdivider and make arrangements for the Council to take final action on the proposed preliminary plat application.

180.11 COUNCIL ACTION ON PRELIMINARY PLAT. The Council, after receiving a recommendation from the Commission, may approve, conditionally approve, or deny the preliminary plat application. The approval of the preliminary plat shall be null and void unless the final plat is presented to the Commission within two years of the date of approval of the preliminary plat by the Council.

180.12 PRELIMINARY PLAT EXTENSION. If the Council gives final plat approval to any integral part of a preliminary plat, the remainder will automatically be extended for a period of one year without the granting of an extension. The preliminary plat is null and void after four successive final plats or five years from the original approval of the preliminary plat.

180.13 CONSTRUCTION PLANS.

1. Application Requirements. The construction plans for the required public improvements shall be approved by the Council. Applications for construction plan approval shall be made to the Department and in a form as based upon guidelines available from the Department. The Department shall prepare a report of the proposed public improvement plans for consideration by the Council, including comments from interested departments and agencies. Construction plans shall be developed in accordance with the approved preliminary plat, this chapter, and the City’s adopted standards and specifications.

2. Construction Plan Contents. Profiles shall be made of all streets and alleys, fifty feet horizontal scale and five feet vertical scale recommended. Profiles shall show location, size and grade of all conduits, sewers, pipelines, etc., to be placed under the streets and alleys. Profiles of east and west streets shall be drawn so that the west end of the profile shall be at the left side of the drawing and profiles of north and south streets shall be drawn so that the south end of the profile shall be at the left side of the drawing.
3. Construction Inspection. Inspection shall be performed as specified in the City’s Standards and Specifications. The subdivider shall reimburse the City for inspections performed.

180.14 FINAL PLAT PROCEDURES. Only that part of the preliminary plat that is proposed by the subdivider for recording at any one time must be submitted in final form. The final plat may reflect the entire plat or an integral unit thereof.

180.15 FINAL PLAT REQUIREMENTS. The subdivider shall submit to the Department copies of a final plat containing the necessary information for approval.

1. Contents of Final Plat. The final plat shall be submitted to the Department and City Attorney for study and review. A licensed land surveyor and engineer shall make this plat from an accurate survey. The Council shall place guidelines on the processing timelines that shall be disseminated by the Department.

2. Review and Recommendation by Commission. After receiving the Department’s report, the Commission shall examine the final plat and accompanying material for conformity with these regulations and the approved preliminary plat. The Commission may confer with the subdivider on changes deemed advisable and the extent of such improvements to be made by the subdivider. The Commission shall make a recommendation to approve, conditionally approve, or reject such plat within sixty (60) days after the date of receipt by the Commission. The Department shall transmit the recommendation of the Commission and the Department’s report to the Council and subdivider.

3. Consideration by City Council. The final plat shall conform to the preliminary plat approval and to this Code of Ordinances and the required public improvements shall be completed or assurance provided for their completion. The Council shall not consider a final plat until receipt from the subdivider of a title opinion, tax certificate, easements, deeds, lender’s certificates, and other information to the satisfaction of the City Attorney and Director. If the Commission does not recommend approval of the final plat, the Council may approve said plat only by a four-fifths majority of the membership of the Council. The Council will approve the plat via a resolution that shall be recorded with the plat. The Clerk shall seal the approved final plat. The subdivider shall be responsible for the recordation of the final plat and associated documentation with the Polk County Recorder’s Office. Approval of the final plat by the Council shall be null and void if the plat is not recorded within thirty days after the date of approval, unless application for an extension of time is made in writing during said thirty-day period to the Council.

4. Acceptance of Public Improvements. Approval of the final plat by the City does not constitute final acceptance by the City of any improvements to be constructed, unless specifically stated in the resolution approving the final plat. Improvements will be accepted only after their construction has been completed and inspected by appropriate City personnel certifying the improvements have been completed in conformance with standards and specifications and all other requirements of the City. The Council may accept all streets, utilities, alleys, easements, parks or other areas reserved for or dedicated to the public. Upon completion of the improvements as required in this chapter and upon receipt of utility service locations (if applicable) the Council may accept the improvements by resolution, at which time the City will assume maintenance of the improvements.
180.16 PLATS IN UNINCORPORATED AREAS. The provisions of this section shall apply to all subdivisions located in the unincorporated area of Polk County within a two-mile radius of the Johnston corporate limits, with the exception of the area east of the Des Moines River and Saylorville Lake, in accordance with Section 354.9 of the Code of Iowa. For plats located in unincorporated areas, the standards and conditions applied by the City for review and approval of the subdivision shall be the same standards and conditions used for review and approval of subdivisions within the City limits. The City may, by resolution, defer its review authority to the governing jurisdiction or accept the standards of the other governing jurisdiction.

180.17 AUDITOR’S PLATS. Whenever the Polk County Auditor requests an Auditor’s plat, all provisions of this chapter governing subdivisions shall apply to such Auditor’s plat. In situations where requirements for a new plat are not applicable to an Auditor’s Plat, the Director will determine those requirements that must be adhered to provided there is on file with the Clerk a copy of the request for such plat by the Polk County Auditor and a letter from said Auditor stating that the plat as submitted meets the requirements for which the Auditor has ordered the plat.

180.18 MINOR PROPERTY TRANSFER. Any parcel of land to be transferred from one owner to another adjacent owner that does not constitute a subdivision as defined under Section 180.03 shall be platted as a plat of survey. The proposed division for transfer shall not result in or encourage development that is inconsistent with adjacent development and neighborhood character. If it is determined the plat of survey conforms to all other provisions of this chapter, the City Administrator shall indicate approval with a signature on the plat of survey within ten days of submittal. The plat of survey shall be recorded with Polk County within thirty days of the City Administrator’s signature or it will become null and void.

180.19 DESIGN AND DEVELOPMENT STANDARDS GENERALLY.
1. Conformance Required. No subdivision plat shall be approved by the Council unless it conforms to all applicable minimum standards and requirements of this chapter, except those plats referred to as auditor’s plats.

2. Variations Allowed. Whenever the tract proposed to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in less desirable use of the land, the City may modify or vary such requirements to the end that the subdivider is allowed to develop property in a reasonable manner. The variations and exceptions granted shall be in harmony with the intended spirit of this chapter and granted with the view toward protecting the public welfare and interest of the City and surrounding area.

3. Creation of Lots with Some Services not Available. It is the policy of the City to prohibit the creation of lots where adequate services are not provided. Adequate services would include (but are not limited to) availability of water service adequate to serve fire protection needs, sanitary sewer service as opposed to individual sewer disposal systems, adequate streets to serve the proposed use without creating safety concerns and maintenance liabilities for the City. However, there are areas of the City where service levels are currently deficient and may remain deficient for several years to come. Where it is unlikely that services will be provided in an economically practical and timely fashion, the creation of the subdivision via the platting procedure is dependent upon satisfactory evidence that:
A. The lots created would be an appropriate division of land and shall not hinder the future upgrade of public services to a level as envisioned in the Comprehensive Plan.

B. Any on-site wastewater treatment system must be approved by Polk County or the Iowa Department of Natural Resources.

C. The existing street system has the capacity and is in satisfactory condition to support the increased development.

D. The proposed subdivision is an infill project within an existing neighborhood.

E. The subdivision shall create a small number of lots, generally no more than 2 to 3.

F. The property owner seeking to develop the subdivision shall acknowledge through petition and waiver that they will be in full support of any future capital improvement project in that neighborhood. The project will be one that is financed all or partially by special assessment and built to the City’s subdivision regulations and standard specifications. In addition, the City Council may interpret the vote for that property and/or subsequent lots as votes in support of the project.

4. Large Lot Subdivision. Whenever the area is divided into lots containing one or more acres and there are indications that such lots will eventually be re-subdivided into smaller building lots, consideration shall be given to the street and lot arrangement of the original subdivision so that additional minor streets can be opened which will permit a logical arrangement of smaller lots.

180.20 GENERAL SUBDIVISION DESIGN. The layout of streets shall discourage through traffic on local streets and channel traffic onto collector and arterial streets. The layout should also conform to the topographical character of the site through the use of curvilinear streets. The street circulation system shall be established to achieve economical use of land for building sites, minimize the cost of roadway construction, and provide uniform, efficient, and safe traffic conditions. The layout of streets shall also be consistent with the general character desired as defined in the City’s Comprehensive Plan and other policies and guidelines of the City.

180.21 DATUM PLANE. The United States Coast and Geodetic Survey Datum Plane is established and adopted as the City of Johnston datum plane and shall be used as the reference plane in establishing all elevations and grades within the City.

180.22 RELATIONSHIP TO ADJOINING STREET SYSTEM. The arrangement of streets in new subdivisions shall make provision for the continuation or proper intersection of existing streets in adjoining subdivisions, or their proper projection where adjoining property is not subdivided. The width of such streets in new subdivisions shall not be less than the minimum street widths established here. The street and alley arrangement shall cause no hardship to owners of adjoining property and it’s ability to be platted consistent with this chapter.

180.23 HALF-STREETS. The platting of half-streets shall be discouraged. Whenever there exists a dedicated or platted half-street or alley adjacent to the tract to be subdivided, the other half of the street or alley shall be platted.
180.24 STREET RIGHT-OF-WAY AND PAVEMENT DIMENSIONS. The following design standards for street right-of-way and pavement dimensions shall be considered minimum standards for the design of subdivisions in the City and shall be based upon the street’s functional classifications as follows:

1. Local Service Streets. Cul-de-sac and loop streets serving up to 24 dwelling units or an equivalent amount of traffic may have a street right-of-way width of 50 feet and pavement width of 26 feet, back of curb to back of curb. The pavement width shall accommodate one traffic lane and one parking lane.

2. Local Street. Streets serving 25 or more dwelling units and commercial and industrial development of less than 1,500 average daily trips (“ADT”) shall have a street right-of-way of 60 feet and pavement width of 29 feet, back of curb to back of curb. The pavement width shall accommodate two through traffic lanes and one parking lane.

3. Minor Collector Streets. Streets serving surrounding development with less than 2,500 ADT shall have a right-of-way width of 60 feet and pavement width of 31 feet, back of curb to back of curb. The pavement shall accommodate two through traffic lanes and one parking lane.

4. Major Collector Streets. Streets serving the surrounding area with less than a projected 5,000 ADT shall have a right-of-way width of 60 feet and pavement width of 49 feet for four-lane streets if applicable. The 31-foot, back-to-back pavement width shall accommodate two 11-foot-wide traffic lanes and one parking lane. The pavement shall be widened when traffic safety and performance merit the increase.

5. Arterial Streets. Streets designated as arterial streets on the major streets plan of the City’s Comprehensive Plan and having a projected volume of over 5,000 ADT shall have a minimum right-of-way width of 100 feet and pavement width of 49 feet, back of curb to back of curb. Arterials may be maintained to a lesser pavement width standard provided that consideration is given to traffic safety and performance.

**Summary of Street Classification System**

<table>
<thead>
<tr>
<th>Street Designation</th>
<th>Volume</th>
<th>Right-of-Way Width</th>
<th>Pavement Width</th>
</tr>
</thead>
<tbody>
<tr>
<td>Local service – loop or cul-de-sac</td>
<td>Less than 250 ADT</td>
<td>50 feet</td>
<td>26 feet</td>
</tr>
<tr>
<td>Local service</td>
<td>Less than 1,500 ADT</td>
<td>60 feet</td>
<td>29 feet</td>
</tr>
<tr>
<td>Minor collector</td>
<td>Less than 2,500 ADT</td>
<td>60 feet</td>
<td>31 feet</td>
</tr>
<tr>
<td>Major collector</td>
<td>Less than 5,000 ADT</td>
<td>60 to 80 feet</td>
<td>31 feet or more</td>
</tr>
<tr>
<td>Arterial*</td>
<td>Greater than 5,000 ADT</td>
<td>100 feet or more</td>
<td>49 feet or more</td>
</tr>
<tr>
<td>Cul-de-sac</td>
<td>Greater than 5,000 ADT</td>
<td>105 feet diameter</td>
<td>80 feet diameter</td>
</tr>
</tbody>
</table>

* Note: Arterial street rights-of-way with greater widths than listed above shall be required to maintain an adequate area between the street pavement and the right-of-way boundary to accommodate desired corridor area of a minimum of fifteen feet for utilities and public sidewalks, unless a greater width is required by other ordinances or standards of the City.
180.25 **MAXIMUM CURVATURE OF STREETS.** For all major streets except collectors and local service streets, the minimum radius of curvature shall be 300 feet on the centerline; for collector streets, 100 feet, and local service streets, 50 feet.

180.26 **MAXIMUM GRADE.** The maximum grade for any street shall not exceed seven percent, except in the case of local service streets where twelve percent grade shall be permissible. Changes in grades for all streets shall be connected by vertical curves of minimum length equal to fifteen times the algebraic difference in rate of grade. The grade alignment and resultant visibility especially at intersections shall be worked out in detail to meet the approval of the City.

180.27 **CUL-DE-SACS.** All cul-de-sacs shall terminate in a circular right-of-way with a minimum right-of-way diameter of 105 feet and paved section diameter of 80 feet. Dead-end streets are limited for health and safety purposes to provide adequate fire protection and suitable ingress/egress for emergency vehicles and for occupants. Cul-de-sacs shall be limited to land uses which generate no more than 250 average daily trips which rely entirely upon the roadway for ingress/egress to their property. For the purposes of this section, a single-family residence would generate ten ADT. Traffic generation will be based upon actual traffic counts or upon trip generation surveys of the Institute of Traffic Engineers. The Council may permit cul-de-sacs exceeding 600 feet in length or serving greater than 250 ADT if one or more of the following circumstances have been demonstrated to their satisfaction.

1. The terminated roadway cannot be extended further due to the presence of (but not limited to) unique or excessive slopes or drainage ways which would require substantial cuts and fills, the extension of which may cause adverse visual and environmental effects, blockage of natural drainage ways, disturbance of natural areas, or other adverse environmental impacts.

2. The terminated roadway cannot be extended further due to unique configurations of land ownership or existence of public land ownership where the extension of the roadway is not consistent with the purpose of the open space.

3. There is an incorporation of innovative design measures (such as boulevards, additional roadway width, additional turning radius and alternate vehicular access) that suitably mitigate the intent to maintain fire protection and emergency vehicle ingress/egress and satisfy all other City standards and specifications.

180.28 **TEMPORARY DEAD-END STREETS.** All temporary dead-end streets serving four or more lots or exceeding 200 feet in length shall terminate in a temporary turn-around constructed of temporary Asphaltic Concrete (or alternate) with a minimum diameter of 60 feet or other satisfactory means of turning a vehicle, including vehicles required to remove snow.

180.29 **SUBDIVISION INGRESS/EGRESS.** The normal development of subdivisions may result in only one means of ingress/egress for a period of time until a later phase of development occurs or until an abutting property extends the roadway. Temporary dead-end streets shall not support land uses which generate more than 500 ADT, without provision for secondary access to a public street consisting of a minimum of 16-foot-wide paved access to the satisfaction of the Council.

180.30 **BLOCKS.** No block shall be longer than 1,320 feet.
180.31 LOTS.

1. All side lot lines shall be substantially at right angles or radial to street centerlines, unless the Commission agrees that a variation to this requirement will provide for better street and lot arrangement. Double frontage lots shall be avoided except where essential to provide separation of residential development from major arterial streets or to overcome specific disadvantages of topography.

2. The minimum dimensions for lots shall be in accordance with the bulk regulations of the Zoning Ordinance for the district within which the subdivision is located; provided, corner lots shall be of such width as to permit the maintenance of all yard requirements as required by the Zoning Ordinance.

3. The minimum depth for a lot shall be 100 feet except for patio homes, townhomes, condominiums and other similar life-style homes.

4. All lots at street intersections shall have a radius of not less than 15 feet at the street corner. A greater radius shall be required for intersections involving one or more major streets. A cutoff or chord may be substituted for the circular arc.

180.32 STREET FRONTAGE REQUIRED. No lot shall be created for residential purposes and no building permit shall be issued for a residential structure unless the lot abuts for at least 40 feet on a public street. A lot may contain a building used for residential purposes if an exclusive unobstructed private easement of access or private right-of-way of at least 25 feet wide to a public street is provided up to and including the lot being created. If a common easement of access or right-of-way will provide access for two (2) or more single-family dwellings, the common easement of access or right-of-way shall be at least 50 feet wide from the public street up to and including the lot being created. A lot served by a common easement of access shall not be created until the Council can make a determination that: (i) the easement is a reasonable means of access in lieu of a public street; (ii) assurance exists that the improvements will be maintained in perpetuity; and (iii) the common driveway or private drive improvements are adequate for their intended use.

180.33 FLAG LOTS. The subdivision of land into “flag lots” may be permitted if the Council determines the flag lot cannot be included as part of adjoining vacant land to create a subdivision in compliance with this chapter.

180.34 STREET NAMES AND LOT ADDRESSES. Names of new streets within a subdivision shall be shown on the preliminary plat and shall be subject to review by City staff and approval by the Council. Address designations for all buildable lots created shall be provided by the Director and shown on the final plat and shall be subject to approval by the Council.

1. All newly platted streets shall be named in a manner conforming to the prevailing street naming system. Proper names of individuals shall not be considered acceptable as street names, except upon approval of the Council. The Council may commemorate or honor an individual who has made a significant contribution of high recognition to the community, State or nation by requiring that name to be shown on the plat.

2. The last name of all streets in the City shall be determined as follows: North and south streets shall end with Street or Court. East and west streets shall end as Drive, Avenue, Place, Circle, or Lane. Major arterial or collector streets that run in any direction will be named as Boulevard, Way, or Road.
3. Streets which are looped, with their two accesses from the same street and whose predominant street alignment is perpendicular to the street from which its access is obtained, shall have a minimum of two separate street name identifications; if a significant segment of such looped street has an alignment generally parallel to the street from which access is obtained, a third street name within the loop may be permitted.

4. A looped street may have only one name if its predominant alignment is parallel to the street from which access is obtained, and provided the segments of the loop street not parallel to the street from which access is obtained are not significant in length and have few lot frontages.

5. Addresses for buildable lots shall be reviewed by City staff and approved by the Commission and Council as part of their review of the final plat. Addresses shall be designated based upon a grid system with intervals of eight blocks of approximately 660 feet per block in the north-south alignment, and 14 blocks of approximately 380 feet per block in the east-west alignment.

6. As a general policy for numeric addressing of lots, addresses shall be sequenced in increments of four per lot for north-south streets and increments of eight per lot for east-west streets. Variations from this number sequencing may be required for subdivisions with large lots. Addresses on the north and east sides of a street shall be odd numbers, and addresses on the south and west sides of a street shall be even numbers.

180.35 SANITARY SEWERS. All sanitary sewers and appurtenant facilities shall be designed and constructed in accordance with the City’s standards and specifications for sanitary sewers. Plans shall be prepared by a registered Civil Engineer in the State of Iowa. They shall be designed to meet the ultimate flow requirements as determined by the City Engineer. They shall be extended as far as necessary to accommodate its future extension.

180.36 WATER MAINS. All water mains and appurtenant facilities shall be designed and constructed in accordance with standards and specifications for water mains. Plans shall be prepared by a registered Civil Engineer in the State of Iowa. Mains shall be 6-inch or larger as necessary to meet service and fire flow demand, and completed with necessary valves, stop boxes, and fittings. Fire hydrants shall be spaced at a maximum of 600 feet in residential areas; 300 feet in multi-family, commercial, and industrial areas, and not greater than 250 feet from major structures.

180.37 STORM DRAINAGE FACILITIES. Plans shall be prepared by a registered Civil Engineer in the State of Iowa and verified by the City Engineer. Facilities shall be designed to convey drainage through the site equivalent to the 100-year storm in a developed state. On-site drainage facilities shall be designed to provide sufficient detention facilities to reduce the release rate to the equivalent of a 5-year recurrence interval storm when the property was in an undeveloped state. They shall be extended as far as necessary to accommodate footing drain water discharge and to serve adjacent tributary properties.

180.38 BUILDING LINES. Building lines shall be shown on all lots intended for residential use. Such building lines shall not be less than the minimum yard requirements of the Zoning Ordinance for the district within which the property is located. The building setbacks as specified in the Zoning Ordinance shall take precedence to the building line shown on the recorded plat.
180.39 CHARACTER OF DEVELOPMENT. The Council shall have the right to agree with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may require that certain minimum regulations regarding this matter be incorporated in deed restrictions. Such regulations shall be intended to protect the character and value of the surrounding development and shall also tend to secure the most appropriate development of the property being subdivided.

180.40 EASEMENTS ALONG STREAMS. In compliance with Chapter 145, Erosion and Sediment Control and Stormwater Management and whenever any stream or major surface watercourse is located in an area that is being developed and/or subdivided, the applicant shall, at the applicant’s expense, make any required modifications to existing storm drainage channels to properly carry the surface water. The applicant shall also provide and dedicate to the City an easement along each side of said stream or watercourse.

180.41 EASEMENTS. Easements for public and private utilities, open space, walkways, and overland flowage shall be provided where needed. Such easements shall be a minimum of ten (10) feet total width for private utilities only, and fifteen (15) feet total width for combined private utility and walkway easements. Proper coordination shall be established between the subdivider, Department of Community Development, and the utility companies for the establishment of utility easements. Perpetual unobstructed easements of at least ten (10) feet in total width may be required along side lot lines with satisfactory access to the rear lot lines or road where necessary. Drainage easements may vary in width depending upon drainage requirements. Easements for dedicated public utilities shall be a minimum of ten (10) feet on either side of the centerline of the utility. Easements identified on the preliminary and final plats shall be by separate written document approved by the City Attorney and Director and filed in conjunction with the final plat.

180.42 IMPROVEMENTS REQUIRED. Before the final plat of any area shall be approved by the Council and recorded, the subdivider shall make and install the improvements described in this section.

1. Bond. In lieu of final completion of the minimum improvements before the plat is finally approved, the subdivider shall post a bond, approved by the City Attorney and Director. The bond will insure to the City that the subdivider will complete the improvements within one year after final approval of the plat. The amount of the bond shall not be less than the estimated cost of the improvements and the amount of the estimate must be approved by the City Council. If the improvements are not completed within one year after the approval of the construction plans or the approval of the final plat, the Council, at its sole discretion, may use the bond or any portion thereof to complete the improvements. Subdivision bonds for improvements shall be in full force and effect until acceptance of the improvements by the City, at which time the maintenance bonding period shall commence.

2. Maintenance Bond. The subdivider shall warrant the design, material, workmanship, installation, and/or construction of such improvements for a period of four (4) years from and after acceptance of the roadway paving, and four (4) years for sanitary sewers, storm sewers and water mains. Such warranty shall be by bond or other acceptable collateral, shall be subject to review by the City Attorney, and shall specifically assure the expeditious repair or replacement of defective improvements under warranty; and shall indemnify the City from any and all costs or losses resulting
from, attributed to, or otherwise arising from such defective improvements. The contractor may post the required maintenance bond in lieu of the subdivider.

3. Inspection. The Public Works Director shall inspect all construction. Laboratory and field tests shall be taken when necessary. No construction will be permitted or accepted without proper inspection. Inspection costs will be paid by the subdivider to the City.

4. Streets. The subdivider shall grade and improve all new streets between the right-of-way lines within the subdivided area. The paving of such new streets shall be built according to the City’s adopted standards and specifications. Minimum pavement widths shall be in accordance with adopted City standards.

5. Improvement to Adjacent Streets. The following are adopted as general guidelines to be applied to development and their projected impact upon the existing and proposed transportation network of the City as envisioned in the Johnston Comprehensive Plan, as amended, and subsequent traffic analysis.

   A. The subdivider/property owner shall be responsible for improvement to collector street standard, any street adjacent to and in the interior of their project as noted on the Comprehensive Plan. The City shall be responsible for the balance of the improvements required.

   B. It shall be the subdivider/property owner’s responsibility to provide the required improvement at the time of development. In lieu thereof, the City may accept a petition and waiver for the improvement or a performance bond for its eventual construction.

   C. The required improvement shall include participation in appurtenant improvements including traffic signals, drainage facilities and turning lanes as required by the project.

6. Lot Grading. The subdivider shall, whenever necessary, grade any portion of the property subdivided into lots so that each lot will be usable and suitable for the erection of residences or other structures thereon. Grading shall be in accordance with Chapter 145 of this Code of Ordinances. Lot grading shall not commence until all required permits are obtained, including any permits required from the Department of Natural Resources.

7. Sanitary Sewers. The subdivider shall construct sanitary sewers according to the standards and specifications of the City, and provide a connection for each lot to the sanitary sewer. Where existing sewer outlets are not within reasonable distance, installation of private sewer facilities or septic tanks may be permissible as a temporary measure pending future sewer service. In situations of on-site sewage disposal the subdivider shall provide to the City appropriate permits issued by Polk County or the Iowa Department of Natural Resources.

8. Storm Sewers and Drainageways. All storm drainage flowing through the site and from within the site shall be conveyed through storm drains and appurtenant facilities. The facilities shall be constructed in accordance with the City’s standards and specifications for storm drains.

9. Water Mains. The subdivider shall provide for the installation of water mains and fire hydrants in the subdivided area, and such installation shall be made prior to the street pavement construction and shall be in accordance with the standards and specifications of the City.
10. Sidewalks. The subdivider shall provide for the installation of sidewalks along all newly created lots, including sidewalks on adjacent existing streets. The sidewalks shall be built according to the standards and specifications of the City. The subdivider shall indicate in the application for approval of a preliminary or final plat those sidewalks that will be constructed at the time of installation of public improvements, and those that the subdivider would like the Council to defer until a later date. If the Council agrees to defer construction of the sidewalks, sidewalks shall be constructed at the time a principal structure is built upon the adjacent lot or lots or within five (5) years of plat approval, whichever is earlier. Notwithstanding the above, the Council may require the sidewalk’s construction at the time adjacent roadway construction takes place or at any other time as noted in the final plat approval. At the time sidewalk construction is required as provided above, such construction shall be completed at the sole cost and expense of the person or entity that owns the property or lot at the time of construction.

11. Street Signs. The City shall furnish and cause to be erected at all intersections, street identification signs, and posts in accordance with standards approved by the Council. The subdivider shall reimburse the City for all costs associated with the purchase and installation of the required street signs.

12. Planting. Planting may be proposed by the subdivider or required by the City along rear or side lot lines which border any divided highways, major arterials, or frontage roads, and shall be illustrated on the preliminary plat.

13. Streetlights. Installation of streetlights shall be required in accordance with design and specification standards approved by the City. Plans for steel pole streetlights with underground distribution shall be submitted by the subdivider to the City for approval. The subdivider shall pay the cost of streetlights with underground distribution lines.

14. Monuments. Permanent monuments shall be set at each corner of the perimeter of the subdivision and at the corner of each block within the subdivision and at the corner of each lot. All monuments shall be made of permanent material, sensitive to a dip needle and at least 30 inches long.

15. Private Utilities. All private utilities, including but not limited to, gas, electric power, telephone, and cable TV lines shall be located underground throughout all residential zoning districts. The availability of these facilities and their existing location shall be shown on the preliminary plat. The subdivider shall be responsible for complying with the utility requirements of this Code of Ordinances. The subdivider shall also be responsible for making the necessary arrangements including any construction or installation charges with each of the serving utilities. Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, and other facilities necessarily appurtenant to such underground utilities shall be underground if possible. Such facilities shall be placed within easements or public rights-of-way provided for each particular facility. Overhead utilities with underground service lines may be permitted in commercial and industrial zoning districts.

16. Rear Lot Sidewalk Lighting. Rear lot sidewalk lighting shall be installed by the subdivider where required and dedicated to the City in accordance with City standards.

17. Fencing. The subdivider shall furnish and install fences required by the Zoning Ordinance or otherwise required by the City Council.
18. Debris and Waste. No cut trees, debris, earth, rocks, stones, soil, junk, rubbish or other waste materials of any kind shall be left or deposited on any lot or street at the time of the issuance of a certificate of occupancy on a subdivision. Nor shall any of the above be left or deposited in any area of the subdivision at the time of expiration of the performance bond or dedication of public improvements.

180.43 PUBLIC PARKLAND DEDICATION. The purpose of this section is to regulate the use and development of land so as to assure that new developments provide for the health, safety and welfare of future residents by providing land for public parks within the City and within areas being newly developed or redeveloped for residential purposes.

1. Rules of Construction. The provisions of this section shall be liberally construed so as to effectively carry out its purpose in the interest of the public health, safety, and welfare. For the purposes of administration and enforcement, unless otherwise stated in this section, the following rules of construction shall apply to the text of this section:

   A. In case of any difference of meaning or implication between the text of this section and any caption, illustration, summary table, or illustrative table, the text shall control.

   B. The phrase “used for” includes “arranged for, designed for, maintained for, or occupied for.”

   C. Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction “and,” “or,” or “either…or,” the conjunction shall be interpreted as follows:

      (1) “And” indicates that all the connected terms, conditions, provisions, or events shall apply.

      (2) “Or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination.

      (3) “Either... or” indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.

   D. The word “includes” shall not limit a term to the specific example but is intended to extend its meaning to all other instances or circumstances of like kind or character.

2. Definitions. The following terms are defined for use in this section:

   A. “Capital improvement” includes parks planning, land acquisition, site improvements, buildings, and equipment but excludes maintenance and operation.

   B. “Developer” means any person, individual, firm, partnership, association, corporation, estate, trust or other entity acting or proposing to subdivide land for the construction of any of the residential buildings identified in Section 181.05.

   C. “Development order” means a regulatory approval by the City.

   D. “Dwelling unit” means a room or group of rooms which are arranged, designed, or used as a dwelling for the occupancy of one family, containing sleeping, bathroom, and kitchen facilities.
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SUBDIVISION REGULATIONS

E. "Mobile home unit" is defined in the Zoning Ordinance.

F. "Multiple-family dwelling" means a dwelling designed for or occupied by three (3) or more families with separate housekeeping and cooking facilities for each but excluding townhomes or condominiums as defined in the Zoning Ordinance.

G. "Park" means any neighborhood park or neighborhood recreational trail.

H. "Pond" means any still body of standing water.

I. "Private recreational facility" is any recreational facility which is not owned by or dedicated to the City.

J. "Recreational facility improvements" consist of the acquisition and installation of equipment, building construction, grading, landscaping, and extension of services. These improvements include only those activities that are directly associated with the development of the proposed recreational facilities from raw ground.

K. "Single-family attached dwelling" includes two-family dwellings, townhomes and condominiums as defined in the Zoning Ordinance.

L. "Single-family detached dwelling" is the same as a single-family dwelling as defined in the Zoning Ordinance.

M. "Waterway" means a channel through which water runs.

3. Dedication of Public Parkland Required. Any developer who seeks to develop land for residential purposes within the City shall be required to dedicate public parkland. No new plats or site plans for residential development shall be approved unless and until the provisions of this section are complied with.

4. Computation of Amount of Public Parkland Required. This subsection shall prescribe the minimum amount of space to be provided in a proposed development for use as a public park. Such space shall be required to be provided by a developer who seeks to develop land within the City by submitting a plat or site plan for approval.

A. The amount of public parkland required in a proposed development shall be computed as follows:

(1) Residential Occupancy Per Living Units. In determining the anticipated occupancy for the proposed development it shall be assumed that the following dwellings will accommodate the following number of individuals:

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<th>Land Use Type (Unit)</th>
<th>Individuals Per Residential Living Unit</th>
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<tbody>
<tr>
<td>Single-Family Detached</td>
<td>2.980 individuals</td>
</tr>
<tr>
<td>Single-Family Attached</td>
<td>1.954 Individuals</td>
</tr>
<tr>
<td>Multi-Family</td>
<td>1.615 individuals</td>
</tr>
<tr>
<td>Mobile Home each Unit</td>
<td>1.600 individuals</td>
</tr>
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</table>

(2) Public Parkland Per Individual. In determining the space required for public parkland in a proposed development, it shall be required that 5 acres of recreational space be provided for every 1,000
individuals. Since some developments will not house 1,000 individuals, the space requirement is to be applied on a per-individual basis. Therefore, .005 acres of public parkland shall be provided for each individual proposed to be housed in the new development based on the assumptions contained in paragraph A above.

(3) Calculation of Required Public Parkland for Each Development.

(a) For single-family detached developments generally intended for individual ownership, the following formula shall be utilized:

(number of lots) x (2.980 individuals/lot) x (.005 acres/individual)

Example for illustration purposes only: For a single-family detached residential development subject to the requirements of this section that proposes 75 lots, the calculation under this paragraph would be as follows:

75 lots x 2.980 x .005 = 1.118 acres

Under this illustration, the developer would be required to dedicate public parkland on at least 1.118 acres of property within the proposed development.

(b) For single-family attached developments generally intended for individual ownership, the following formula shall be utilized:

(number of lots) x (1.954 individuals/lot) x (.005 acres/individual)

Example for illustration purposes only: For a single-family attached residential development subject to the requirements of this section that proposes 75 lots, the calculation under this paragraph would be as follows:

75 lots x 1.954 x .005 = .7328 acres

Under this illustration, the developer would be required to dedicate public parkland on at least .7328 acres of property within the proposed development.

(c) For multi-family developments generally intended for rental, the following formula shall be utilized:

(number of units) x (1.615 individuals/unit) x (.005 acres/individual)

(Note: The 1.615 is based upon 2000 census for rental occupancy.)

Example for illustration purposes only: For a multi-housing residential development subject to the requirements of this section that proposes 100 units, the calculation under this paragraph would be as follows:

100 units x 1.615 x .005 = .8075 acres
Under this illustration, the developer would be required to dedicate public parkland on at least .8075 acres of property within the proposed development.

(d) For mobile home developments, the following formula shall be utilized:

\[(\text{number of lots}) \times (1.60 \text{ individuals/lot}) \times (.005 \text{ acres/individual})\]

Example for illustration purposes only: For a mobile home development subject to the requirements of this section that proposes 75 mobile home lots, the calculation under this paragraph would be as follows:

\[75 \text{ lots} \times 1.60 \times .005 = .60 \text{ acres}\]

Under this illustration, the developer would be required to dedicate public parkland on at least .60 acres of property within the proposed development.

B. If a plat or site plan is requested for mixed uses, then subsection 1 of this section shall apply only to those areas of the plat or site plan devoted to residential uses.

C. The dedicated public parkland may include waterways and ponds, provided the area of such waterways and ponds is not used to satisfy the amount of public parkland required in subsection 1 of this section.

D. In the case of change of use, redevelopment, or expansion or modification of an existing use which requires the approval of an amended plat or site plan, the above space requirements for public parkland shall be based upon the new lots or new units being proposed for development.

E. Where proposed subdivisions abut undeveloped lands, the dedicated public parkland shall be located adjacent to the subdivision boundaries with the undeveloped land, at the discretion of the City Council, to allow the public parkland to be increased in size when the adjacent property develops.

F. The amount of public parkland required to be dedicated under this section shall be capped and shall not exceed the following percentages when compared to the amount of acres being developed.

1. Single-Family Detached. The amount of acres required to be dedicated as public parkland shall not exceed 5% of the total number of acres being developed as single-family detached.

2. Single-Family Attached and Multi-Family. The amount of acres required to be dedicated as public parkland shall not exceed 10% of the total number of acres being developed as long as the proposed development does not exceed 12 units per acre. If the proposed development exceeds 12 units per acre, the amount of acres required to be dedicated as public parkland shall not exceed 15% of the total number of acres being developed as single-family attached or multi-family.
(3) Mobile Homes. The amount of acres required to be dedicated as public parkland shall not exceed 10% of the total number of acres being developed as mobile homes.

5. Dedication of Land or Easements for Trails. Where bike/pedestrian or recreational trails are indicated in the Comprehensive Plan, the developer shall be required to dedicate land or trail easements at least twenty (20) feet in width. This land or easements, if approved by the City Council, may serve to satisfy parkland dedication requirements.

6. Alternative to Development of Public Parkland. If a developer does not desire to dedicate public parkland required in subsection 4, the developer can make a request to the City Council that the developer be allowed to meet the requirements of such section through other arrangements agreeable to the City Council and the developer as long as such agreement provides equal value to the City. Such arrangements shall be made between the City Council and the developer in the form of a Development Agreement.

7. Exemptions and Credits. The following shall be exempted from the requirements of subsections 3, 4 and 5:

A. Alterations or expansion of an existing building where no additional residential units are created and where the use is not changed.

B. The construction of accessory buildings or structures.

C. The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use.

D. The installation of a replacement mobile home.

E. The construction of any nonresidential building or structure or the installation of a nonresidential mobile home.

F. Minor subdivisions as defined in Section 180.07 of this Code of Ordinances.

Any claim of exemption shall be made no later than the time of application for a preliminary plat approval. Any claim not so made shall be deemed waived.
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