

CHAPTER 1

CODE OF ORDINANCES

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

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

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. "City" means the City of Swisher, Iowa.
3. "Clerk" means the city clerk of Swisher, Iowa.
4. "Code" means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
5. "Code of Ordinances" means the Code of Ordinances of the City of Swisher, Iowa.
6. "Council" means the city council of Swisher, Iowa.
7. "County" means Johnson 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"Ordinances" means the ordinances of the City of Swisher, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity,

and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

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

15. “Shall” imposes a duty.

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

17. “State” means the State of Iowa.

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

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

20. “City Design Standards” means the latest edition of the *Iowa Statewide Urban Design Specifications (SUDAS)*, including applicable Supplemental Design Standards and Supplemental Specifications.

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 to 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 any injury to or death of any person or persons whomsoever, and any 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 that 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 this 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 this 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 this Code of Ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper with this Code of Ordinances in any manner that will cause the law of the City to be misrepresented.

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

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

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

1.14 STANDARD PENALTY. Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or otherwise violating any provision of this Code of Ordinances, or any rule or regulation adopted herein by reference shall, upon conviction, be subject to only a monetary fine as provided for a misdemeanor violation under Iowa Code Section 903.1 subsection 1, paragraph “a”.[†] *(Ord. 267 – Dec. 17 Supp.)*
(Code of Iowa, Sec. 364.3[2] and 903.1[1a])

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[†] **EDITOR’S NOTE:** For civil penalty for violations of this Code of Ordinances, see Chapter 3.

CHAPTER 2

CHARTER

2.01 Title

2.02 Form of Government

2.03 Powers and Duties

2.04 Number and Term of Council

2.05 Term of Mayor

2.06 Copies on File

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

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

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of four (4) years.

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE:** Ordinance No. 100 adopting a charter for the City was passed and approved by the Council on June 16, 1975. The terms of office of the Mayor and Council members were changed from two years to four years pursuant to an election held on November 6, 2001.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties

3.04 Civil Citations
3.05 Alternative Relief
3.06 Alternative Penalties

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 that 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.

[†] **EDITOR'S NOTE:** For criminal penalty for violations of this Code of Ordinances, see Section 1.14.

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

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

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

If the citation affects real property and charges a violation relating to the condition of the property, including a building code violation, a local housing regulation violation, a housing code violation, or a public health or safety violation, after filing the citation with the Clerk of the District Court, the City shall also file the citation in the office of the County Treasurer.

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 ALTERNATIVE 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 4

BOUNDARIES

4.01 CORPORATE LIMITS. The corporate limits of the City are described as follows:

Beginning at the northeast corner of the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) Section Seven (7), Township Eighty-one (81) North, Range Seven (7) West of the 5th Principal Meridian, Swisher, Johnson County, Iowa; thence South 89°50'43" West along the north line of the Northeast Quarter (NE1/4) of said Section Seven (7) a distance of 1,323.11 feet; thence continuing South 89°50'43" West along the north line of the Northwest Quarter (NW1/4) of said Section Seven (7) a distance of 1,118.79 feet to the east line of the west 192 feet of said Northwest Quarter (NW1/4); thence South 00°04'22" West along said east line 250 feet to the south line of the north 250 feet of said Northwest Quarter (NW1/4); thence South 89°50'43" West along said south line 192 feet to the west line of said Northwest Quarter (NW1/4); thence South 00°04'22" West along said west line 643.58 feet to the north line of Marak Second Subdivision to Johnson County; thence South 89°42'48" East along the north line of Lot 1 of Marak Second Subdivision 244.16 feet; thence South 00°04'22" East along the east line of said Lot 1 a distance of 191.24 feet to the south line of a Warranty Deed recorded in book 4791, page 833-834 in the office of the Johnson County Recorder; thence North 89°55'05" East along said south line 1069.63 feet to the west line of Fisher's Third Addition to the City of Swisher also being the west line of the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) of said Section Seven (7); thence South 00°04'55" East along said west lines to the southwest corner of Lot 14 of said Fisher's Third Addition; thence South along the west line of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) to a point on the south line of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); thence east along said south line to the west line of Lot 3 of Fisher's Fourth Addition to the City of Swisher; thence South 00°37'00" East along said west line to the south line of said Lot 3; thence North 89°23'00" East along said south line 75.00 feet to the southwest corner of Lot 6 of said Fisher's Third Addition; thence North 89°23'00" East along the south line of Lots 4, 5, and 6 of said Fisher's Third Addition 252.43 feet; thence North 74°55'00" East along the southeasterly line of Lots 2 and 3 of said Fisher's Third Addition to a point on the south line of said Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4); thence East along said south line to a point on the west line of Lot 5 of Fisher's First Addition to the City of Swisher; thence South 03°05' West along the west line of said Fisher's First Addition to the south line of said Lot 5; thence South 86°55" East along said south line to the centerline of Swisher View Drive SW; thence southerly along the centerline of Swisher View Drive SW to a point on the north line of the Northeast Quarter of the Southeast Quarter (NE1/4

SE1/4) of said Section Seven (7); thence South 88°30'52" West along said north line to the northwest corner of said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4); thence South 01°25'17" West along the west line of said Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4) a distance of 260.84 feet to the south line of Lot 3 of Sweet Apple Hill Addition to the City of Swisher; thence South 89°50'06" East along said south line 317.83 feet to the southwesterly corner of Lot 1 of said Sweet Apple Hill Addition; thence South 53°12'44" East along the southwesterly line of said Lot 1 a distance of 125.00 feet; thence North 26°00'37" East along the easterly line of said Lot 1 a distance of 174.82 feet; thence North 36°47'16" East along said easterly line 108.00 feet to the centerline of Swisher View Drive SW; thence southeasterly along the centerline of Swisher View Drive SW to the northwesterly line of Outlot "A" of Honey Creek Estate Addition to the City of Swisher; thence South 38°54'02" West along said northwesterly line 33.00 feet to the northwesterly corner of Lot 1 of Honey Creek Estates Second Addition to the City of Swisher; thence continuing South 38°54'02" West along the northwesterly line of said Lot 1 a distance of 347.50 feet to the southwesterly line of said Lot 1; thence South 53°20'20" East along the southwesterly line of Lots 1 and 2 of said Hone Creek Estates Second Addition 731.79 feet to the east line of said Lot 2; thence North 00°03'06" East along said east line 399.54 feet to the northeast corner of said Lot 2; thence continuing North 00°03'06" East along the east line of Outlot "A" of said Hone Creek Estate Addition 48.47 feet to the centerline of Swisher View Drive SW; thence southeasterly along the centerline of Swisher View Drive SW to a point on the north line of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Eight (8), Township Eighty-One (81) North, Range Seven (7) West of the 5th Principal Meridian; thence West along said north line to a point on the west line of said Southwest Quarter of the Southwest Quarter (SW1/4); thence South along said west line to a point on the south line of the North One-Half of the Southwest Quarter of the Southwest Quarter (N1/2 SW1/4 SW1/4) of said Section Eight (8); thence East along said south line to the centerline of Swisher View Drive SW; thence southeasterly along the centerline of Swisher View Drive SW to a point where said centerline intersects with the centerline of Oak Avenue SE; thence northerly along the centerline of Oak Avenue SE to the north line of a Court Officer Deed recorded in book 5346, page 524-527 in the office of the Johnson County Recorder also being shown on a Boundary Retracement Survey Plat recorded in book 19, page 106 in the office of the Johnson County Recorder; thence North 89°28'00" East along the north line of said Court Office Deed 233.00 feet to the east line of said Court Officer Deed; thence South 01°05'20" West along said east line 10.22 feet to the north line of Auditor's Parcel No. 2001-128; thence North 89°40'38" East along said north line 1061.65 feet to the center of said Section Eight (8); thence North 00°31'50" East along the west line of said Auditor's Parcel No. 2001-128 also being the west line of the Northeast Quarter (NE1/4) of said Section Eight (8) a distance of 665.04 feet to the north line of said Auditor's Parcel No. 2001-128 also being the north line of the South One-Half of the Southwest Quarter of the Northeast Quarter (S1/2 SW1/4 NE1/4); thence North 89°45'27" East

along said north line 685.74 feet to the northeast corner of said Auditor's Parcel No. 2001-128; thence continuing North 89°45'27" East along said north line of the South One-Half of the Southwest Quarter of the Northeast Quarter (S1/2 SW1/4 NE1/4) to the northwest corner of Lot 1 of Marak Subdivision to Johnson County; thence North 89°48'02" East along the north line of said Lot 1 a distance of 233.02 feet to the east line of the Southwest Quarter of the Northeast Quarter (SW1/4 NE1/4) of said Section Eight (8) also being the centerline of Marak Road NW; thence North 00°15'41" East along said east line and said centerline 1,986.30 feet to the north line of the Northeast Quarter (NE1/4) of said Section Eight (8) and also being the centerline 120th Street NW; thence West along said north line and said centerline to the east line of Holtz Subdivision to Johnson County; thence North 89°55'36" West along the south line of said Holtz Subdivision 239.01 feet to the west line of said Holtz Subdivision and also being the east right-of-way line of Summit Avenue; thence North 00°40'56" East along said west line 228.52 feet to the southwest corner of Auditor's Parcel No. 98023; thence North 00°05'06" East along the west line of said Auditor's Parcel No. 98023 a distance of 200.00 feet; thence North along the east right-of-way line of Summit Avenue to the north right-of-way line of B Street NE; thence west along said north right-of-way line to the east line of Outlot "A" of Kilberger's First Addition to the City of Swisher; thence North along said east line 584 feet to the north line of said Outlot "A" and also being the north line of the Southwest Quarter of the Southwest Quarter (SW1/4 SW1/4) of Section Five (5), Township Eight-one (81) North, Range Seven (7) West of the 5th Principal Meridian; thence West along said north line 790 feet to the west line of Outlot "B" of said Kilberger's First Addition also being the east right-of-way line of the Cedar Rapids and Iowa City Railroad (also known as CRANDIC Railroad); thence Southerly along said west line and east right-of-way line to the north right-of-way line of B Street NE; thence West along the westerly extension of the north right-of-way line of B Street NE to the west right-of-way line of the Cedar Rapids and Iowa City Railroad (also known as CRANDIC Railroad); thence Northerly along said west right-of-way line to the north line of the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Six (6), Township Eight-one (81) North, Range Seven (7) West of the 5th Principal Meridian; thence West along said north line to the west line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) also being the centerline of Gable Avenue NW; thence South along said west line and said centerline to the southwest corner of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) and also being the Point of Beginning.

(Ch. 4 – Ord. 291 – Aug. 22 Supp.)

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CHAPTER 5
OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Duties: General
5.04 Books and Records
5.05 Transfer to Successor
5.06 Meetings

5.07 Conflict of Interest
5.08 Resignations
5.09 Removal of Appointed Officers and Employees
5.10 Vacancies
5.11 Gifts
5.12 Minimum Wage Requirements

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 Swisher as now or hereafter required by law."

(Code of Iowa, Sec. 63.10)

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

A. Mayor

B. City Clerk

C. Members of all boards, commissions or bodies created by law.

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

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

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

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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[3b])

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

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

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[3e])

5. Newspaper. The designation of an official newspaper.

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

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[3g])

7. Volunteers. Contracts with volunteer firefighters or civil defense volunteers.

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

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[3i])

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars (\$2,500.00) in a fiscal year.

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

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[3l])

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[3m])

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 in accordance with Section 372.13[2] of the *Code of Iowa*.

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

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

5.12 MINIMUM WAGE REQUIREMENTS. The purpose of this ordinance is to reaffirm the minimum wage requirements as set forth in Chapter 91D of the 2015 Code of Iowa. The Johnson County minimum wage adopted by the Johnson County Board of Supervisors on or about the 1st day of November, 2015, is hereby rejected insofar as it raises the minimum wage requirement above those set by Chapter 91D of the 2015 Code of Iowa.

(Ord. 252 – Oct-15 Supp.)

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CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to Be Used
6.02 Nominations by Petition
6.03 Adding Name by Petition

6.04 Preparation of Petition and Affidavit
6.05 Filing, Presumption, Withdrawals, Objections
6.06 Persons Elected

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

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

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

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

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

(Code of Iowa, Sec. 45.4)

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

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

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

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

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

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

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

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

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

3. Petty Cash Fund. The finance officer 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 officer 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 officer 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. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.

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

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

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

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

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

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

A. The amount of the expense of disbursements for operating and maintaining the utility or enterprise for the preceding three (3) months; and

B. The amount necessary to make all required transfers to restricted accounts for the succeeding three (3) months.

(IAC, 545-2.5[384,388], Sec. 2.5[5])

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

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

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

2. Boards and Commissions. All boards, commissions, and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.

3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by the Council.

4. Annual Statement.

(Code of Iowa, Sec. 24.2A[2])

A. On or before March 15 of each year, the City shall file, with the Department of Management, a report containing all necessary information for the Department of Management to compile and calculate amounts required to be included in the statement mailed under Paragraph B.

B. Not later than March 20, the County Auditor, using information compiled and calculated by the Department of Management shall send to each property owner or taxpayer within the County, by regular mail, an individual statement containing all of the required information as provided under Section 24.2(2)(B)(1-9) of the *Code of Iowa*.

C. The Department of Management shall prescribe the form for the report required under Paragraph A, the statements to be mailed under Paragraph B, and the public hearing notice required under Paragraph D.

D. The Council shall set a time and place for a public hearing on the City's proposed property tax amount for the budget year and the City's information included in the statements under Paragraph B. At the hearing, the Council shall receive oral or written testimony from any resident or property owner of the City. This public hearing shall be separate from any other meeting of the Council, including any other meeting or public hearing relating to the City's budget, and other business of the City that is not related to the proposed property tax amounts and the information in the statements shall not be conducted at the public hearing. After all testimony has been received and considered, the governing body may decrease, but not increase, the proposed property tax amount to be included in the City's budget.

(1) Notice of the public hearing shall be published not less than 10 nor more than 20 days prior to the hearing, in a newspaper published at least once weekly and having general circulation in the City. However, if the City has a population of 200 or less, publication may be made by posting in three public places in the City.

(2) Notice of the hearing shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication and shall be maintained on the City's internet site with all such prior year notices and copies of the statements mailed under this section.

(3) Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice.

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

6. Notice of Hearing. Following, and not until the requirements, of Subsection 4 of this section, are completed, the Council shall set a time and place for public hearing on the budget to be held before April 30 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection must be filed with the County Auditor.

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

8. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the

necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing, unless an additional tax levy is approved at a City election. 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])

(Section 7.05 – Ord. 299 – Oct. 23 Supp.)

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

3. Checks. Two signatures are required on all City checks. Checks shall be prenumbered and signed by any two of the following: Mayor, Mayor Pro Tem, and City Clerk, following Council approval, except as provided by Subsection 5 hereof.

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

5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid

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

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

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

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

2. Annual Report. Not later than December 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. The Annual Financial Report shall be prepared on forms and pursuant to instructions prescribed by the Auditor of State. Beginning with the Annual Financial Report published by December 1, 2025, each report shall include a list of bonds, notes, or other obligations issued by the City during the most recently completed fiscal year, and the applicable lists for other fiscal years beginning on or after July 1, 2024, for which obligations remain unpaid, payable from any source, including the amount of the issuance, the project or purpose of the issuance, whether the issuance was approved at election, eligible to be subject to a petition for an election, or was exempt from approval at election as the result of statutory exclusions based on population of the City or amount of the issuance, and identification of issuances from the fiscal year or prior fiscal years related to the same project or purpose.

(Code of Iowa, Sec. 384.22)

(Section 7.08 – Ord. 299 – Oct. 23 Supp.)

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CHAPTER 8

URBAN RENEWAL

8.01 Purpose
8.02 Swisher Urban Renewal Area

8.03 Swisher Housing Urban Renewal Area
8.04 2017 Amendment to Swisher Urban Renewal Area

8.01 PURPOSE. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in the Urban Renewal Areas of the City each year by and for the benefit of the State, City, County, school districts, or other taxing districts after the effective date of the ordinances codified in this chapter in order to create a special fund to pay the principal of and interest on loans, advances or indebtedness, including bonds proposed to be issued by the City, to finance projects in such areas.

8.02 SWISHER URBAN RENEWAL AREA. The provisions of this section apply to the Swisher Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on November 23, 1998:

Streets Included:

“B” Street	Entire right-of-way in City limits
2nd Street	Entire right-of-way in City limits
3rd Street	Entire right-of-way in City limits
4th Street	Entire right-of-way in City limits
Aaron Court	Entire right-of-way in City limits
Alan Avenue	Entire right-of-way in City limits
Swisher View Drive	That Portion north of 4th Street
Rose Avenue	Entire right-of-way in City limits
Summit Avenue	Entire right-of-way in City limits

Specific Properties Included:

<u>Approximate Location</u>	<u>Description</u>	<u>Johnson Co. Parcel Number</u>
SW SW1/4 Section 5-81-7	Swisher City Park	03-05-352-002
NW NE1/4 Section 7-81-7	Undeveloped Fisher Property	03-07-126-005
NW & SW NE1/4 Section 7-81-7	Fisher’s 3rd Addition	03-07-133-001 thru -020
		03-07-134-001 thru -006
NW & SW NE1/4 Section 7-81-7	Fisher’s 4th Addition	03-07-135-001
		03-07-136-001
		03-07-137-001
		03-07-137-001 thru -004
Auditors Parcel #97100	New Swisher Post Office	03-07-126-004
Swisher View Dr. and 3rd Street	Johnson Co. Maintenance Facility	03-07-112-002
NE NE 1/4 Section 7-81-7	Eckrich Property	03-07-114-001
NE & SE NE 1/4 Section 7-81-7	Hurlbert Property	03-07-114-002
SE NE 1/4 Section 7-81-7	Reilly Property	03-07-177-001
SE NE 1/4 Section 7-81-7	Toyne/Plaehn Property	03-07-177-002
SE NE 1/4 Section 7-81-7	16.12 Ac. Uhlenhopp Property	03-07-177-003
NW SW1/4 Section 8-81-7	16.4 Ac. Serbousek Property	03-08-260-002
SW SW1/4 Section 8-81-7	2.62 Ac. Serbousek Property	03-08-327-001

SW SW1/4 Section 8-81-7	4.94 Ac. Brenneman Property	03-08-328-001
SW SW1/4 Section 8-81-7	4.65 Ac. Lueck Property	03-08-328-002
SW SW1/4 Section 8-81-7	19.59 Ac. Hynek Property	03-08-328-003
SW SW1/4 Section 8-81-7	16.0 Ac. Faltis Property	03-08-352-001
SW SW1/4 Section 8-81-7	Town of Swisher Sewer Facility	03-08-351-001
NW NW1/4 Section 8-81-7	Swisher Trust & Savings Bank	03-08-229-001
NW NW1/4 Section 8-81-7	Swisher Telephone Co.	03-08-230-003, -004, -006
NW NW1/4 Section 8-81-7	City of Swisher	03-08-230-005, -008, -009
NW NW1/4 Section 8-81-7	Jilek Property	03-08-230-007
NW NW1/4 Section 8-81-7	Teslik Property	03-08-234-002, -010
NW NW1/4 Section 8-81-7	Hromidko Property	03-08-234-008
NW NW1/4 Section 8-81-7	Wiles Property	03-08-234-009

1. Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area. After the effective date of Ordinance No. 157, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

A. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph B of this section, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other properly taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of Ordinance No. 157, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

B. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the *Code of Iowa*, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of Ordinance No. 157. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in paragraph A of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said

taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

C. the portion of taxes mentioned in paragraph B of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

D. as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

8.03 SWISHER HOUSING URBAN RENEWAL AREA. The provisions of this section apply to the Swisher Housing Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the Council by resolution adopted on March 13, 2006:

A. A portion of the west half of the northeast one-quarter of Section 8, Township 81 North, Range 7 West of the Fifth Principal Meridian, Johnson County, Iowa, the boundaries of which are described as follows:

B. Beginning at the northeast corner of the northwest one-quarter of the northeast one-quarter of Section 8, Township 81 North, Range 7 West of the Fifth Principal Meridian, Johnson County, Iowa; thence S00°34'49"W along the east line of the west one-half of the northeast one-quarter of said Section 8, a distance of 1986.28 feet to the north line of Lot One, Marak's Subdivision as recorded in Book 29, Page 64, of the Johnson County Recorder's Office; thence S89°47'35"W along the north line of said Lot One, 221.85 feet to the northwest corner of said Lot One; thence S00°34'20"W along the west line of said Lot One 3.22 feet to the north line of Auditor's Parcel 2001-130 as recorded in Book 43, Page 291 of the Johnson County Recorder's Office, thence S89°45'27"W along the north line of said Auditor's Parcel, 1194.90 feet to the west line of the northeast one-quarter of said Section 8; thence N00°31'50"E along said west line 1613.41 feet to the southwest corner of Lot 1, Walmar Subdivision, as recorded in Book 41, Page 243, of the Johnson County Recorder's Office; thence N89°59'53"E along the south line of said Lot 1, a distance of 854.89 feet to the southeast corner of said Lot 1; thence N00°31'50"E along the east line of said Lot 1, a distance of 381.71 feet to the north line of said Section 8; thence N89°59'53"E along said north line, 518.52 feet to the point of beginning, said parcel containing 55.26 acres and subject to easements and restrictions of record.

1. Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area. After the effective date of Ordinance No. 207, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

A. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total

sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph B of this section, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of Ordinance No. 207, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

B. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the *Code of Iowa*, incurred by the City to finance or refinance, in whole or in part; projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the *Code of Iowa*, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of Ordinance No. 207. Unless and until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in paragraph A of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

C. the portion of taxes mentioned in paragraph B of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

D. as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

8.04 2017 AMENDMENT TO SWISHER URBAN RENEWAL AREA.

1. Purpose. The purpose of this ordinance is to delete certain property from the tax increment district for the Swisher Urban Renewal Area and to subsequently provide for the division of taxes levied on the taxable property in the March, 2017 Addition to the Swisher Urban Renewal Area of the City, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City to finance projects in the such Area.

2. Definitions. For use within this ordinance the following terms shall have the following meanings:

A. “City” shall mean the City of Swisher, Iowa.

B. “County” shall mean Johnson County, Iowa.

C. “Deleted Property” shall mean the following described real property in the City of Swisher, Johnson County, Iowa:

Certain real property situated in the City of Swisher, County of Johnson, State of Iowa, more particularly described as follows:

- FISHER’S FIFTH ADDITION OL A*
- FISHER’S FIFTH ADDITION OL B*
- FISHER’S FIFTH ADDITION LOT 1*
- FISHER’S FIFTH ADDITION LOT 2*
- FISHER’S FIFTH ADDITION LOT 3*
- FISHER’S FIFTH ADDITION LOT 4*
- FISHER’S FIFTH ADDITION LOT 5*
- FISHER’S FIFTH ADDITION LOT 8*
- FISHER’S FIFTH ADDITION LOT 10*

D. “Tax Increment District” shall mean that portion of the March, 2017 Addition to the Swisher Urban Renewal Area of the City, the legal description of which is set out below, approved by resolution of the City Council on March 13, 2017:

Certain real property situated in the City of Swisher, County of Johnson, State of Iowa, more particularly described as follows:

- FISHER’S FIFTH ADDITION OL A*
- FISHER’S FIFTH ADDITION OL B*
- FISHER’S FIFTH ADDITION LOT 1*
- FISHER’S FIFTH ADDITION LOT 2*
- FISHER’S FIFTH ADDITION LOT 3*
- FISHER’S FIFTH ADDITION LOT 4*
- FISHER’S FIFTH ADDITION LOT 5*

FISHER'S FIFTH ADDITION *LOT 8*

FISHER'S FIFTH ADDITION *LOT 10*

E. "Urban Renewal Area" shall mean the entirety of the Swisher Urban Renewal Area, as amended from time-to-time.

3. The Deleted Property is hereby removed from the tax increment financing district for the Urban Renewal Area. No further division of property tax revenues as provided under Section 403.19 of the *Code of Iowa* shall be done with respect to the Deleted Property, unless and until such property is re-included in a tax increment district by action of the City Council.

4. Provisions for Division of Taxes Levied on Taxable Property in the Tax Increment District. After the effective date of this ordinance, the taxes levied on the taxable property in the Tax Increment District each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Tax Increment District is located, shall be divided as follows:

A. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Tax Increment District, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph B below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Tax Increment District on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Tax Increment District to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

B. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the *Code of Iowa*, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate-income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the *Code of Iowa*, taxes for the instructional support program levy of a school district imposed pursuant to Section 257.19 of the *Code of Iowa*, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the Tax Increment District exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection A of this section, all of the taxes levied

and collected upon the taxable property in the Tax Increment District shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Tax Increment District shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

C. the portion of taxes mentioned in subsection B of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the *Code of Iowa*, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.

D. as used in this section, the word “taxes” includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 262 – Apr. 17 Supp.)

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments

15.04 Compensation
15.05 Voting

15.01 TERM OF OFFICE. The Mayor is elected for a term of four (4) years.
(Code of Iowa, Sec. 376.2)

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

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, 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 appoints, with Council approval, the following officials:

(Code of Iowa, Sec. 372.4)

1. City Treasurer
2. City Attorney
3. Police Chief
4. Library Trustees

15.04 COMPENSATION. The salary of the Mayor is eighteen hundred dollars (\$1,800.00) per year, plus forty dollars (\$40.00) for each Council meeting attended.

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

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

(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties

16.03 Voting Rights
16.04 Compensation

16.01 VICE PRESIDENT OF COUNCIL. The Mayor shall appoint a member of the Council as Mayor Pro Tem, who shall serve as 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])

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CHAPTER 17

CITY COUNCIL

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

17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

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

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

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

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

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

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

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

4. Public Improvements. The Council shall make all orders for the 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. 26.10)

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 one hundred thousand dollars (\$100,000.00) on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure that fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.1[a])

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.
(Code of Iowa, Sec. 372.13[5])
3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])
4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])
5. Compelling Attendance. Any three (3) members of the Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

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

1. City Clerk
2. Parks and Recreation Board
3. Planning and Zoning Commission
4. Zoning Board of Adjustment
5. Zoning Officer
6. Fire Department Representative

17.06 COMPENSATION. The salary of each Council member is forty dollars (\$40.00) for each meeting of the Council attended.

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

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation	18.08 Records
18.02 Powers and Duties: General	18.09 Attendance at Meetings
18.03 Publication of Minutes	18.10 Licenses and Permits
18.04 Recording Measures	18.11 Notification of Appointments
18.05 Other Publications	18.12 Elections
18.06 Authentication	18.13 City Seal
18.07 Certify Measures	18.14 City Funds

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

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

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

18.03 PUBLICATION OF MINUTES. Within fifteen (15) days following a regular or special meeting, the Clerk 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 OTHER PUBLICATIONS. The Clerk shall cause to be published all ordinances, enactments, proceedings and official notices requiring publication as follows:

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

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

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

Swisher Trust and Savings Bank
Post Office
City Hall

Shelton's Grocery Store
American Legion

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

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

18.09 ATTENDANCE AT MEETINGS. The Clerk shall attend all regular and special Council meetings and, 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 LICENSES AND PERMITS. The Clerk shall issue or revoke licenses and permits when authorized by this Code of Ordinances, and keep a record of licenses and permits issued which shall show date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit and purpose for which issued.

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

18.11 NOTIFICATION OF APPOINTMENTS. 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 duties relating to elections in accordance with Chapter 376 of the *Code of Iowa*.

18.13 CITY SEAL. The City seal shall be circular in form, around the margin of which are the words "City Seal." The City seal shall be in the custody of either the Mayor or City Clerk. It may be used at the discretion of the Mayor or City Clerk to authenticate various documents from time to time but shall not be required to validate documents.

18.14 CITY FUNDS. The Clerk shall perform the following duties relating to City funds.

(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 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 from special assessments.
6. Deposit Funds. Upon receipt of moneys to be held in the Clerk's custody and belonging to the City, deposit the same in depositories selected by the Council.
7. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

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CHAPTER 19
CITY TREASURER

19.01 Appointment
19.02 Compensation

19.03 Duties of Treasurer

19.01 APPOINTMENT. The Mayor shall appoint, subject to approval by majority vote of the Council, a City Treasurer to serve for a term of two (2) years.

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

19.03 DUTIES OF TREASURER. The duties of the Treasurer are as follows:
(Code of Iowa, Sec. 372.13[4])

1. Reconciliation. Reconcile the Clerk's books and records and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
2. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation
20.02 Attorney for City
20.03 Power of Attorney
20.04 Ordinance Preparation

20.05 Review and Comment
20.06 Provide Legal Opinion
20.07 Attendance at Council Meetings
20.08 Prepare Documents

20.01 APPOINTMENT AND COMPENSATION. The Mayor shall appoint, subject to approval by majority vote of the Council, a City Attorney to serve for a term of two (2) years. The City Attorney shall receive such compensation as established by resolution of the Council.
(Code of Iowa, Sec. 372.13[4])

20.02 ATTORNEY FOR CITY. The City Attorney shall act as attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission or board. The City Attorney shall prosecute or defend all actions and proceedings when so requested by the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

20.03 POWER OF ATTORNEY. The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.
(Code of Iowa, Sec. 372.13[4])

20.04 ORDINANCE PREPARATION. The City Attorney shall prepare those ordinances which the Council may desire and direct to be prepared and report to the Council upon all such ordinances before their final passage by the Council and publication.
(Code of Iowa, Sec. 372.13[4])

20.05 REVIEW AND COMMENT. The City Attorney shall, upon request, make a report to the Council giving an opinion on all contracts, documents, resolutions, or ordinances submitted to or coming under the City Attorney's notice.
(Code of Iowa, Sec. 372.13[4])

20.06 PROVIDE LEGAL OPINION. The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor or Council.
(Code of Iowa, Sec. 372.13[4])

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

20.08 PREPARE DOCUMENTS. The City Attorney shall, upon request, formulate drafts for contracts, forms and other writings which may be required for the use of the City.
(Code of Iowa, Sec. 372.13[4])

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CHAPTER 21

PLANNING AND ZONING COMMISSION

21.01 Planning and Zoning Commission
21.02 Term of Office
21.03 Vacancies

21.04 Compensation
21.05 Powers and Duties

21.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of five (5) 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)

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

(Code of Iowa, Sec. 392.1)

21.03 VACANCIES. If any vacancy exists on the Commission caused by resignation, or otherwise, a successor for the residue of the term shall be appointed in the same manner as the original appointee. The position of any Board member shall be vacant if the member is absent from six (6) consecutive regular meetings of the Board.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations on Improvements. The design and proposed location of public improvements shall be submitted to the Commission for its recommendations prior to any actions being taken by the City for the construction or placement of such

improvements. Such requirements and recommendations shall not act as a stay upon action for any such improvement if the Commission, after thirty (30) days' written notice requesting such recommendations, has failed to file the same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 22

PARKS AND RECREATION BOARD

22.01 Parks and Recreation Board Created
22.02 Board Organization
22.03 Duties of the Board

22.04 Reports
22.05 Rules

22.01 PARKS AND RECREATION BOARD CREATED. A Parks and Recreation Board is hereby created to advise the Council on the needed facilities to provide open space such as parks, playgrounds and community facilities for other forms of recreation. It shall also plan and oversee City programs and encourage other programs to enhance the leisure time activities of the City's residents of all ages.

22.02 BOARD ORGANIZATION. The Board shall consist of five (5) members, all residents of the City, appointed by the Council, for overlapping terms of four (4) years. The Boards shall annually choose from its membership a Chairperson and Secretary. Members shall receive no compensation. Vacancies shall be filled in the same manner as the original appointment for the balance of the term. The position of any Board member shall be vacant if the member is absent from six (6) consecutive regular meetings of the Board.

(Ord. 258 – Jul. 16 Supp.)

22.03 DUTIES OF THE BOARD. In addition to its duty to make a plan for recreation and for the facilities for recreation, and to update and revise these plans as required, the Board has authority over the properties and personnel devoted to parks and recreation, subject to the limitation of expenditures for salaries and supplies, contracts and capital outlays set forth in the annual budget provided by the Council for parks and recreation operations. The Chairperson shall order supplies by the procedures established by the Council for all departments of the City, and payment will be made by check written by the Clerk for invoices submitted and approved by the Board.

22.04 REPORTS. The Board shall make written reports to the Council of its activities from time to time as it deems advisable, or upon Council request. Its revenues and expenditures shall be reported monthly by the Clerk in the manner of other departmental expenditures, and a copy shall be provided to each member of the Board and in the Clerk's report to the Council.

22.05 RULES. The Board has the power to make rules and regulations for the use of parks or other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public. Violation of a rule or regulation so posted or publicized may be cause for denial of use of the facility or if it is a violation of this Code of Ordinances may be prosecuted as a simple misdemeanor.

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CHAPTER 23

LIBRARY BOARD OF TRUSTEES

23.01 Purpose

23.02 Public Library

23.03 Library Trustees

23.04 Qualifications of Trustees

23.05 Organization of the Board

23.06 Powers and Duties

23.07 Power to Contract with Others for the Use of
the Library

23.08 Nonresident Use of the Library

23.09 Library Account

23.10 Annual Report

23.01 PURPOSE. The purpose of this chapter is to establish a free public library for the City, to create a City Library Board of Trustees and to specify that Board's powers and duties.

23.02 PUBLIC LIBRARY. There is hereby established a free public library for the City to be known as the Swisher Community Library.

23.03 LIBRARY TRUSTEES. The Board of Trustees of the Swisher Public Library, hereinafter referred to as the Board, consists of five (5) members. All Board members are to be appointed by the Mayor with the approval of the Council. A nonresident member (one of the five members) shall be appointed by the Mayor with the approval of the Board of Supervisors.

23.04 QUALIFICATIONS OF TRUSTEES. All of the members of the Board shall be bona fide citizens and residents of the City (except the nonresident member) and shall be the age of majority.

23.05 ORGANIZATION OF THE BOARD.

1. Terms of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on January 1st. Appointments shall be made every two (2) years of one-third the total number as near as possible, to stagger the terms. The initial appointments shall be for staggered terms of two, four, four, six and six years respectively.
(Ord. 249 – Aug-15 Supp.)

2. Vacancies. The position of any Trustee shall be vacant if the Trustee moves permanently from the City (or County in the case of a nonresident County member) or if the Trustee is absent from six (6) consecutive regular meetings of the Board. Vacancies in the Board shall be filled by appointment of the Mayor, with approval of the Council or the Board of Supervisors in the case of the nonresident member, and the new Trustee shall fill out the unexpired term for which the appointment is made.

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

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

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

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

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

4. To employ a Library Director, and authorize the Library Director to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, prior to such employment, the compensation of the Library Director, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof.
5. To remove, by a two-thirds vote of the Board, the Library Director and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty.
6. 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. To authorize the use of the Library by nonresidents of the City and to fix charges therefor.
8. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with 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. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.
10. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. To keep a record of its proceedings.
12. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City by action against the Council.
(Code of Iowa, Ch. 661)
13. To have authority to make agreements with the local County historical associations where such exist, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The Trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for Library purposes.

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

1. Contracting. The Board may contract with any other boards of trustees of free public libraries of any other city, school organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the Library by their respective residents.
2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be

submitted to the electors by the governing body of a contracting party on a written petition of not less than five percent (5%) in number of the electors who voted for governor in the territory of the contracting party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party who is seeking to terminate the contract.

23.08 NONRESIDENT USE OF THE LIBRARY. The Board may authorize the use of the Library by nonresidents in any one or more of the following ways:

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

23.09 LIBRARY ACCOUNT. All money appropriated by the Council from the general fund for the operation and maintenance of the Library shall be set aside in an account for the Library. Expenditures shall be paid for only on orders of the Board, signed by its President and Secretary. The warrant writing officer is the City Clerk.

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

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CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established
30.02 Organization
30.03 Peace Officer Qualifications
30.04 Required Training
30.05 Compensation
30.06 Police Chief Appointed

30.07 Powers and Duties of Police Chief
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons
30.11 Contract Law Enforcement

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 POWERS AND DUTIES OF POLICE CHIEF. The Police Chief has the following powers and duties subject to the approval of the Council.
(Code of Iowa, Sec. 372.13[4])

1. General. Perform all duties required of the police chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.

4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.
(Code of Iowa, Sec. 321.266)
5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
6. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.
7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.
10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

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

30.09 SUMMONING AID. Any peace officer making a legal arrest may orally summon as many persons as the officer reasonably finds necessary to aid the officer in making the arrest.
(Code of Iowa, Sec. 804.17)

30.10 TAKING WEAPONS. Any person who makes an arrest may take from the person arrested all items which are capable of causing bodily harm which the arrested person may have within such person's control to be disposed of according to law.
(Code of Iowa, Sec. 804.18)

30.11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a police chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.
(Code of Iowa, Sec. 28E.30)

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CHAPTER 35
FIRE PROTECTION

35.01 CONTRACT. Pursuant to Chapter 28E of the *Code of Iowa*, the City has entered into a contract agreement with the Jefferson-Monroe Fire Department for fire protection and prevention within the City.

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

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose

36.02 Definitions

36.03 Cleanup Required

36.04 Liability for Cleanup Costs

36.05 Notifications

36.06 Police Authority

36.07 Liability

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

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

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

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

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

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

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

(Code of Iowa, Sec. 455B.381[5])

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

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

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

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

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

1. The reasonable cleanup costs incurred by the City or the agents of the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.
2. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.
3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.
4. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused by that person.

36.05 NOTIFICATIONS.

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

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

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and
2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

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

36.07 LIABILITY. The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 36.02[4].

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CHAPTER 37

KEY LOCK BOX SYSTEM

37.01 Installation Required – New Structures
37.02 Installation Required – Existing Structures

37.03 General Requirements
37.04 Application

37.01 INSTALLATION REQUIRED – NEW STRUCTURES. The following structures constructed after the effective date of the ordinance codified in this chapter shall be equipped with a key lock box:

1. Commercial, industrial, and public structures.
2. Multi-family residential structures (defined as three or more dwelling units for the purpose of this chapter) that have shared or common hallways or entrances.
3. Mixed use commercial and residential structures.
4. Any other structures that have an automatic fire suppression system as defined in the *International Fire Code* and/or a fire alarm system, except for one and two-family dwellings that have a NFP A 13 D fire sprinkler system (Standard for the Installation of Sprinkler Systems in One- and Two- Family Dwellings and Manufactured Homes) and/or a residential fire alarm system.

37.02 INSTALLATION REQUIRED – EXISTING STRUCTURES.

1. Existing structures that have an automatic fire suppression system as defined in the *International Fire Code* and/or a fire alarm system shall install a key lock box within six months of being notified. One or two-family dwellings that have a NFPA 13D fire sprinkler system (Standard for the Installation of Sprinkler Systems in One-and Two-Family Dwellings and Manufactured Homes) and/or a residential fire alarm system are exempt from this requirement.
2. Existing structures that do not have an automatic fire suppression system as defined in the *International Fire Code* and/or a fire alarm system shall install a key lock box if an occupant or owner of the structure applies for a building permit. One or two-family dwellings are exempt from this requirement.

37.03 GENERAL REQUIREMENTS.

1. All newly constructed structures subject to this chapter shall have the key lock box installed and operational prior to the issuance of an occupancy permit.
2. The Fire Chief shall designate the type of key lock box system to be implemented within the City and shall have the authority to require all structures to use the designated system.
3. The key lock box shall be located at or near the main entrance to the building or property. It shall be mounted at a height of six feet above final grade or designated by the Fire Chief.
4. The owner or operator of a structure required to have a key lock box shall, at all times, keep a current key in the lock box that will allow for access to the structure.

5. The Fire Chief shall be authorized to implement rules and regulations for the use of the lock box system.
6. Structures required by this chapter to have a key lock box shall not share a key lock box with another structure.
7. Based on the size of the structure, additional key lock boxes may be required at the determination of the Fire Chief.
8. Any property or building owner failing to comply with or in violation of the terms of this chapter after notice from the City Fire Chief shall be subject to a municipal infraction or simple misdemeanor citation.

37.04 APPLICATION. The Fire Chief shall write a procedure for the use of the key lock box system by the Fire Department.

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CHAPTER 40

PUBLIC PEACE

40.01 Assault

40.02 Harassment

40.03 Disorderly Conduct

40.04 Unlawful Assembly

40.05 Failure to Disperse

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

1. Pain or Injury. Any act that is intended to cause pain or injury to another or that is intended to result in physical contact that 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 that 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])

An act described in subsections 1 and 2 shall not be an assault under the following circumstances: (i) if the person doing any of the 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 of serious injury or breach of the peace; (ii) if the person doing any of the 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, 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 trespass or assault. As used in this subsection:

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

A. "Deface" means to intentionally mar the external appearance.

B. "Defile" means to intentionally make physically unclean.

C. "Flag" means a piece of woven cloth or other material designed to be flown from a pole or mast.

D. “Mutilate” means to intentionally cut up or alter so as to make imperfect.

E. “Show disrespect” means to deface, defile, mutilate, or trample.

F. “Trample” means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41
PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances	41.08 Abandoned or Unattended Refrigerators
41.02 False Reports to or Communications with Public Safety Entities	41.09 Antenna and Radio Wires
41.03 Providing False Identification Information	41.10 Barbed Wire and Electric Fences
41.04 Refusing to Assist Officer	41.11 Discharging Weapons
41.05 Harassment of Public Officers and Employees	41.12 Throwing and Shooting
41.06 Interference with Official Acts	41.13 Urinating and Defecating
41.07 Removal of an Officer's Communication or Control Device	41.14 Fireworks

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

(Code of Iowa, Sec. 727.1)

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

(Code of Iowa, Sec. 718.6)

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

41.03 PROVIDING FALSE IDENTIFICATION INFORMATION. No person shall knowingly provide false identification information to anyone known by the person to be a peace officer, emergency medical care provider, or firefighter, whether paid or volunteer, in the performance of any act that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter.

(Code of Iowa, Sec. 719.1A)

41.04 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)

41.05 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)

41.06 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 firefighter, whether paid or volunteer, in the performance of any act that is within the scope of the lawful duty or authority of that officer, emergency medical care provider, or firefighter, 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)

41.07 REMOVAL OF AN OFFICER'S COMMUNICATION OR CONTROL DEVICE. No person shall knowingly or intentionally remove or attempt to remove a communication device or any device used for control from the possession of a peace officer or correctional officer, when the officer is in the performance of any act which is within the scope of the lawful duty or authority of that officer and the person knew or should have known the individual to be an officer.

(Code of Iowa, Sec. 708.12)

41.08 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)

41.09 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])

41.10 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.

41.11 DISCHARGING WEAPONS.

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

41.12 THROWING AND SHOOTING. It is unlawful for a person to throw stones, bricks, or missiles of any kind or to shoot arrows, 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, without written consent of the Council.

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

41.13 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.

41.14 FIREWORKS.

(Code of Iowa, Sec. 727.2)

1. Definitions. For purposes of this section:
 - A. “Consumer fireworks” means the following fireworks, as described in Chapter 3 of the American Pyrotechnics Association (“APA”) Standard 87-1:
 - (1) First-class consumer fireworks:
 - a. Aerial shell kits and reloadable tubes;
 - b. Chasers;
 - c. Helicopters and aerial spinners;
 - d. Firecrackers;
 - e. Mine and shell devices;
 - f. Missile-type rockets;
 - g. Roman candles;
 - h. Sky rockets and bottle rockets;
 - i. Multiple tube devices under this paragraph B which are manufactured in accordance with APA Standard 87-1, Section 3.5.
 - (2) Second-class consumer fireworks:
 - a. Cone fountains;
 - b. Cylindrical fountains;
 - c. Flitter sparklers;
 - d. Ground and hand-held sparkling devices, including multiple tube ground and hand-held sparkling devices that are manufactured in accordance with APA Standard 87-1, Section 3.5;
 - e. Ground spinners;
 - f. Illuminating torches;
 - g. Toy smoke devices that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2;
 - h. Wheels;

i. Wire or dipped sparklers that are not classified as novelties pursuant to APA Standard 87-1, Section 3.2.

B. "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 Chapter 3 of the APA Standard 87-1.

C. "Novelties" includes all novelties enumerated in Chapter 3 of the APA Standard 87-1, and that comply with the labeling regulations promulgated by the United States Consumer Product Safety Commission.

2. Display Fireworks. It is unlawful for any person to use or explode any display fireworks; provided, the City Council may, upon application in writing, grant a permit for the display of display fireworks by municipalities, fair associations, amusement parks, and other organizations or groups of individuals approved by the City when the display fireworks will be handled by a competent operator, but no such permit shall be required for the display of display fireworks at the Iowa State Fairgrounds by the Iowa State Fair Board, at incorporated county fairs, or at district fairs receiving State aid. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

- A. Personal Injury: \$250,000.00 per person
- B. Property Damage: \$50,000.00
- C. Total Exposure: \$1,000,000.00

3. Consumer Fireworks. It is unlawful for any person to use or explode consumer fireworks within the City.

4. Novelties. This section does not apply to novelties.

(Ord. 266 – Nov. 17 Supp.)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing

42.02 Criminal Mischief

42.03 Defacing Proclamations or Notices

42.04 Unauthorized Entry

42.05 Fraud

42.06 Theft

42.07 Other Public Property Offenses

42.01 TRESPASSING.

1. Prohibited. It is unlawful for a person to knowingly trespass upon the property of another.

(Code of Iowa, Sec. 716.8)

2. Definitions. For purposes of this section:

(Code of Iowa, Sec. 716.7[1])

A. “Property” includes any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure, whether publicly or privately owned.

B. “Public utility” is a public utility as defined in Section 476.1 of the *Code of Iowa* or an electric transmission line as provided in Chapter 478 of the *Code of Iowa*.

C. “Public utility property” means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind.

D. “Railway corporation” means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this State.

E. “Railway property” means all tangible real and personal property owned, leased, or operated by a railway corporation, with the exception of any administrative building or offices of the railway corporation.

- F. “Trespass” means one or more of the following acts:

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

(1) 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.

(2) 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 the agent or employee of 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.

(3) Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(4) 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.

(5) Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This paragraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering onto the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.

(6) Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that owns, leases, or operates the public utility property. This paragraph does not apply to passage over public utility right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

3. Specific Exceptions. “Trespass” does not mean either of the following:
(*Code of Iowa, Sec. 716.7[2b]*)

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

B. Entering upon the right-of-way of a public road or highway.

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

(*Code of Iowa, Sec. 716.1*)

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

(*Code of Iowa, Sec. 716.1*)

42.04 UNAUTHORIZED ENTRY. No unauthorized person shall enter or remain in or upon any public building, premises or grounds in violation of any notice posted thereon or when said

building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

42.07 OTHER PUBLIC PROPERTY OFFENSES. The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other activities or conditions that are also deemed to be public property offenses:

1. Chapter 23 – Library
 - A. Section 23.10 – Injury to Books or Property
 - B. Section 23.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
 - A. Section 105.07 – Littering Prohibited
 - B. Section 105.08 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
 - A. Section 135.01 – Removal of Warning Devices
 - B. Section 135.02 – Obstructing or Defacing
 - C. Section 135.03 – Placing Debris On
 - D. Section 135.04 – Playing In
 - E. Section 135.05 – Traveling on Barricaded Street or Alley
 - F. Section 135.08 – Burning Prohibited
 - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
 - A. Section 136.11 – Interference with Sidewalk Improvements
 - B. Section 136.15 – Fires or Fuel on Sidewalks
 - C. Section 136.16 – Defacing
 - D. Section 136.17 – Debris on Sidewalks
 - E. Section 136.18 – Merchandise Display
 - F. Section 136.19 – Sales Stands

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CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose

43.02 Controlled Substance Defined

43.03 Drug Paraphernalia Defined

43.04 Determining Factors

43.05 Possession of Drug Paraphernalia

43.06 Manufacture, Delivery or Offering For Sale

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

9. Containers. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.
10. Storage Containers. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.
11. Injecting Devices. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body.
12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:
 - A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
 - B. Water pipes;
 - C. Carburetion tubes and devices;
 - D. Smoking and carburetion masks;
 - E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - F. Miniature cocaine spoons and cocaine vials;
 - G. Chamber pipes;
 - H. Carburetor pipes;
 - I. Electric pipes;
 - J. Air driven pipes;
 - K. Chillums;
 - L. Bongs;
 - M. Ice pipes or chillers.

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.
15. Expert Testimony. Expert testimony concerning its use.

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 Substance 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*.

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age

45.02 Public Consumption or Intoxication

45.03 Open Containers in Motor Vehicles

45.04 Social Host

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 in a public place.

3. A person shall not simulate intoxication in a public place.

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

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(49) and (50) of this Code of Ordinances.]*

45.04 SOCIAL HOST. A person who is the owner or lessee of, or who otherwise has control over, property that is not a licensed premises shall not knowingly permit any person, knowing or having reasonable cause to believe the person to be under the age of eighteen, to consume or possess on such property any alcoholic liquor, wine, or beer. The provisions of this subsection shall not apply to a landlord or manager of the property or to a person under legal age who consumes or possesses any alcoholic liquor, wine, or beer in connection with a religious observance, ceremony, or rite.

(Code of Iowa, Sec. 123.47[1A])

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CHAPTER 46

MINORS

46.01 Curfew

46.02 Cigarettes and Tobacco

46.03 Contributing to Delinquency

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

1. Definitions. For use in this section, the following terms are defined:
 - A. “Emergency errand” means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.
 - B. “Knowingly” means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult’s custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.
 - C. “Minor” means any unemancipated person under the age of sixteen (16) years.
 - D. “Nonsecured custody” means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person’s parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.
 - E. “Public place” includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

- F. "Responsible adult" means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.
2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 10:30 p.m. and 5:00 a.m. of the following day.
3. Exceptions. The following are exceptions to the curfew:
- A. The minor is accompanied by a responsible adult.
 - B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.
 - C. The minor is present at or is traveling between home and one of the following:
 - (1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end of work;
 - (2) Minor's place of religious activity or, if traveling, within one hour after the end of the religious activity;
 - (3) Governmental or political activity or, if traveling, within one hour after the end of the activity;
 - (4) School activity or, if traveling, within one hour after the end of the activity;
 - (5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end of the activity.
 - D. The minor is on an emergency errand for a responsible adult;
 - E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.
4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.
5. Enforcement Procedures.
- A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.

B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

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

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

6. Penalties.

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

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

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

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

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under 21 years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under 21 years of age shall not constitute a violation of this section if the individual under 21 years of age

possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes 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* or who lawfully offers for sale or sells cigarettes or tobacco products. *(Ord. 275 – Oct. 20 Supp.)*

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

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

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

CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires

47.04 Littering
47.05 Parks Closed
47.06 Camping

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

(Code of Iowa, Sec. 364.12)

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

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

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

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of 10:30 p.m. and 6:00 a.m.

47.06 CAMPING. No person shall camp in any portion of a park except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited

50.05 Nuisance Abatement
50.06 Abatement of Nuisance by Written Notice
50.07 Municipal Infraction 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 that 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 that, by occasioning noxious exhalations, unreasonably offensive smells, or other annoyances, becomes injurious and dangerous to the health, comfort, or property of individuals or the public.
2. **Filth or Noisome Substance.** Causing or suffering any offal, filth, or noisome substance to be collected or to remain in any place to the prejudice of others.
3. **Impeding Passage of Navigable River.** Obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.
4. **Water Pollution.** Corrupting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.
5. **Blocking Public and Private Ways.** Obstructing or encumbering, by fences, buildings or otherwise, the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.
6. **Billboards.** Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, that 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 62.06)**
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, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard. **(See also Chapter 52)**

10. Dutch Elm Disease. Trees infected with Dutch elm disease. **(See also Chapter 151)**
11. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.
12. Houses of Ill Fame. Houses of ill fame, kept for the purpose of prostitution and lewdness; gambling houses; places resorted to by persons participating in criminal gang activity prohibited by Chapter 723A of the *Code of Iowa* or places resorted to by persons using controlled substances, as defined in Section 124.101 of the *Code of Iowa*, in violation of law, or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Keeping of Chickens **(See Chapter 56)**
3. Dangerous Buildings **(See Chapter 145)**
4. Storage and Disposal of Solid Waste **(See Chapter 105)**
5. Trees **(See Chapter 151)**

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

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.06 of this chapter or the municipal infraction procedure referred to in Section 50.07.

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

50.06 ABATEMENT OF NUISANCE BY WRITTEN NOTICE. Any nuisance, public or private, may be abated in the manner provided for in this section:

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: †
 - A. Description of Nuisance. A description of what constitutes the nuisance.

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

- B. Location of Nuisance. The location of the nuisance.
- C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.
- D. Reasonable Time. A reasonable time within which to complete the abatement.
- E. 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 the property owner.
2. Method of Service. The notice may be in the form of an ordinance or sent by certified mail to the property owner.
(Code of Iowa, Sec. 364.12[3h])
3. Request for Hearing. Any person ordered to abate a nuisance may have a hearing with the Council as to whether a nuisance exists. A request for a hearing must be made in writing and delivered to the Clerk within the time stated in the notice, or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. The hearing will be before the Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance is found to exist, it shall be ordered abated within a reasonable time under the circumstances.
4. 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 that may be required under this chapter without prior notice. The City shall assess the costs as provided in subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.
(Code of Iowa, Sec. 364.12[3h])
5. 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])
6. 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])
7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds five hundred dollars (\$500.00), 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)

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

50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code of Ordinances.

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions

51.02 Junk and Junk Vehicles Prohibited

51.03 Junk and Junk Vehicles a Nuisance

51.04 Exceptions

51.05 Notice to Abate

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

1. “Junk” means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
2. “Junk vehicle” means any vehicle legally placed in storage with the County Treasurer or unlicensed and which has any of the following characteristics:
 - A. Broken Glass. Any vehicle with a broken or cracked windshield, window, headlight or tail light, or any other cracked or broken glass.
 - B. Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, steering wheel or trunk lid.
 - C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.
 - D. Flammable Fuel. Any vehicle which contains gasoline or any other flammable fuel.
 - E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.
 - F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

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

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

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

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

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

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

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])

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CHAPTER 52

WEEDS AND NOXIOUS GROWTHS

52.01 Weeds and Noxious Growths Must Be Destroyed or Cut

52.02 Notice to Destroy or Cut

52.03 Contents of Notice to Destroy or Cut

52.04 Method of Service

52.05 Destruction or Cutting by City

52.06 Collection of Cost

52.01 WEEDS AND NOXIOUS GROWTHS MUST BE DESTROYED OR CUT. All weeds, vines, brush or other growth which constitutes a health, safety or fire hazard, on any lot or parking adjacent thereto, shall be destroyed by the owner or persons in possession of the lot; or, in lieu of destruction, weeds and growths specified herein shall be frequently cut. The Mayor or other authorized municipal officer shall determine the necessary frequency of cutting and shall determine whether or not the cutting is properly done. In addition to noxious weeds, ordinary lawn grass that is allowed to grow more than ten (10) inches high shall also be deemed a nuisance under this chapter and subject to all provisions herein.

52.02 NOTICE TO DESTROY OR CUT. Upon the failure of the owner or the person in possession of such lot to destroy, to keep cut, or to properly cut the weeds and growths specified herein, the Mayor or other authorized municipal officer shall cause to be served upon the owner, agent, or person in possession of such property a written notice to destroy or cut.

52.03 CONTENTS OF NOTICE TO DESTROY OR CUT. The notice to destroy or cut shall contain:

1. The location of the weeds and growths.
2. An order to destroy or cut the weeds and growths within three (3) days of the date of mailing of the notice.
3. A statement of the act or acts necessary to destroy or properly cut the weeds and growths and a statement that if the weeds and growths are not destroyed or properly cut, the City will destroy or cut the weeds and growths and assess the cost against the property owner.

52.04 METHOD OF SERVICE. The notice to destroy or cut shall be by personal service or certified mail.

52.05 DESTRUCTION OR CUTTING BY CITY. If the person so notified neglects or fails to destroy or cut the weeds and growths specified therein within three (3) days of service of the notice, the Mayor or other officer initiating the notice may cause the weeds and growths specified therein to be destroyed or cut, keeping an accurate account of the expenses incurred. The expenses shall be fully itemized, verified, and filed with the Clerk. Such expenses shall be paid by the City.

52.06 COLLECTION OF COST. The Clerk shall mail a statement of the total cost to the person failing to abide by the notice to destroy or cut and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and it shall then be collected with, and in the same manner as, general property taxes.

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions	55.11 Releasing Animals
55.02 Animal Neglect	55.12 Molesting Animals
55.03 Livestock Neglect	55.13 Rabies Vaccination
55.04 Abandonment of Cats and Dogs	55.14 Owner's Duty
55.05 Livestock	55.15 Confinement
55.06 At Large Prohibited	55.16 At Large: Impoundment
55.07 Damage or Interference	55.17 Disposition of Animals
55.08 Annoyance or Disturbance	55.18 Contract with Humane Society
55.09 Sanitation	55.19 Hold Harmless
55.10 Female Dogs or Cats	55.20 Pet Awards Prohibited

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

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.
(Code of Iowa, Sec. 717B.1)
3. "At large" means off the premises of the owner, unless, with reference to a dog which is:
 - A. Attached to a leash or similar restraint which is of sufficient strength to restrain the dog and which is held by a person capable of restraining and controlling the dog;
 - B. Properly restrained within a motor vehicle, or housed in a veterinary hospital or kennel; or
 - C. Accompanied and "at heel" beside the owner or a competent responsible person.
4. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.

7. “Livestock” means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas and emus; farm deer as defined in Section 170.1 of the *Code of Iowa*; or poultry.

(Code of Iowa, Sec. 717.1)

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

9. “Pet” means a living dog, cat, or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko, or iguana.

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

55.06 AT LARGE PROHIBITED. It is unlawful for any owner to allow any dog or cat, whether licensed or unlicensed, or any suspected hazardous animal to run at large within the corporate limits of the City.

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

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

55.09 SANITATION. It is the duty of every person owning or having custody or control of an animal to clean up, remove and dispose of the feces deposited by such animal upon public property, park property, public right-of-way or the property of another person.

55.10 FEMALE DOGS OR CATS. A female dog or cat while in season shall be confined in an enclosure or building and not be permitted off the premises of its owner except while such animal is being transported.

55.11 RELEASING ANIMALS. No person, except the owner, shall willfully open any door or gate on any private premises for the purpose of enticing or enabling any animal to leave such private premises and to be at large.

55.12 MOLESTING ANIMALS. No person shall willfully molest, tease, provoke or mistreat any animal while confined on its owner's premises.

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

(Code of Iowa, Sec. 351.33)

(Ord. 251 – Oct-15 Supp.)

55.14 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. In addition, every owner of an animal which is known or suspected to be suffering from rabies or which has been bitten by an animal infected with rabies shall also immediately report such fact to the local board of health.

(Code of Iowa, Sec. 351.38)

55.15 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)

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

55.17 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog or cat, by having it immediately vaccinated. If the owner fails to redeem the animal within seven (7)

days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

(Ord. 251 – Oct-15 Supp.)

55.18 CONTRACT WITH HUMANE SOCIETY. The City may enter into a contract with the Humane Society, or similar incorporated society organized for the express purpose of prevention of cruelty to animals, for the use of its facilities for the restraining and impounding of animals. Any such contract shall provide for the maintenance of suitable impounding quarters for the humane care of animals impounded therein, and for the destruction or disposition of animals.

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

55.20 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717E)

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 that 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.

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CHAPTER 56

KEEPING OF CHICKENS

56.01 Definitions	56.08 Predators, Rodents, Insects and Parasites
56.02 Permit Required	56.09 Feed and Water
56.03 Number and Type of Chickens Allowed	56.10 Waste Storage and Removal
56.04 Zoning Districts Allowed	56.11 Chickens at Large
56.05 Non-Commercial Use Only	56.12 Unlawful Acts
56.06 Enclosures	56.13 Nuisances
56.07 Odor and Noise Impacts	

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

1. “Chicken” means a member of the subspecies *Gallus domesticus*, a domesticated fowl.
2. “Permitted tract of land” means the tract of land as identified by the application upon which a permit is granted for keeping chickens pursuant to this chapter.
3. “Permittee” means an applicant who has been granted a permit to raise, harbor, or keep chickens pursuant to this chapter.
4. “Single-family dwelling” means any building that contains only one dwelling unit used, intended, rented, leased, let, or hired to be occupied for living purposes.
5. “Tract of land” means a property or a zoned lot that has one single-family dwelling located on that property or zoned lot.
6. “Urban chicken” means a chicken kept on a permitted tract of land pursuant to a permit issued under this chapter.

56.02 PERMIT REQUIRED. No person shall raise, harbor, or keep chickens within the City without a valid permit obtained from the City Clerk under the provisions of this chapter.

1. Application. In order to obtain a permit, an applicant must submit a completed application on forms provided by the Clerk and pay all fees required by this chapter.
2. Requirements. The requirements for receipt of a permit include:
 - A. All requirements of this chapter are met.
 - B. All fees for the permit are paid in full, as may be provided for from time to time by the Council resolution.
 - C. All judgments in the City’s favor and against the applicant have been paid in full.
 - D. The tract of land to be permitted shall contain only one single-family dwelling, occupied and used as such by the permittee.
 - E. The applicant has provided notice of the applicant’s intent to obtain a permit to the residents of all immediately adjacent dwellings.
 - F. The applicant has successfully completed an approved class in raising chickens in an urban setting. The City Clerk shall maintain a current list of such approved classes.

3. Issuance of Permit. If the Clerk concludes, as a result of the information contained in the application, that the requirements for a permit have been met, then the Clerk shall issue the permit.
4. Denial, Suspension, Revocation, Non-Renewal. The City Clerk may deny, suspend, revoke, or decline to renew any permit issued for any of the following grounds:
 - A. False statements on any application or other information or report required by this section to be given by the applicant.
 - B. Failure to pay any application, penalty, re-inspection or reinstatement fee required by this section or Council resolution.
 - C. Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
 - D. Failure to comply with the provisions of an approved mitigation/remediation plan by the City Clerk.
 - E. Failure to comply with any provision of this chapter.
5. Notification. A decision to revoke, suspend, deny, or not renew a permit shall be in writing, delivered by ordinary mail or in person to the address indicated on the application. The notification shall specify reasons for the action.
6. Effect of Revocation. When an application for a permit is denied, or when a permit is revoked, the applicant may not re-apply for a new permit for a period of one year from the date of the denial or revocation.
7. Appeals. No permit may be denied, suspended, revoked, or not renewed without notice and an opportunity to be heard given to the applicant or holder of the permit. In any instance where the Clerk has denied, revoked, suspended, or not renewed a permit, the applicant or permittee may appeal the decision to the Council within ten (10) business days of the receipt by the applicant or holder of the permit of the notice of the decision. The applicant or holder of the permit will be given an opportunity for a hearing. The decision of the Council or any decision by the Clerk which is not appealed in accordance with this chapter shall be deemed final action.

56.03 NUMBER AND TYPE OF CHICKENS ALLOWED. The maximum number of chickens allowed is eight (8) per tract of land, regardless of how many dwelling units are on the tract. Only female chickens (hens) are allowed.

56.04 ZONING DISTRICTS ALLOWED. Permits will be granted only for tracts of land located in residential districts as identified on the current Official Zoning Map on file with the City.

56.05 NON-COMMERCIAL USE ONLY. A permit shall not allow the premises to engage in chicken breeding or fertilizer production for commercial purposes.

56.06 ENCLOSURES.

1. Chickens must be kept in an enclosure or fenced area at all times. Chickens shall be secured within a henhouse or chicken tractor during non-daylight hours.
2. Enclosures must be kept in a clean, dry, odor-free, neat and sanitary condition at all times.
3. Henhouses, chicken tractors, and chicken pens must provide adequate ventilation and adequate sun and shade and must be impermeable to rodents, wild birds and predators, including dogs and cats.
4. Henhouses and chicken tractors shall be designed to provide safe and healthy living conditions for the chickens with a minimum of four (4) square feet per bird while minimizing adverse impacts to other residents in the neighborhood.
5. Henhouses or chicken tractor shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked at night. Opening windows and vents must be covered with predator and bird proof wire of less than one-inch openings.
6. The materials used in making a henhouse or chicken tractor shall be uniform for each element of the structure such that the walls are made of the same material, the roof has the same shingles or other covering, and any windows or openings are constructed using the same materials. The use of scrap, waste board, sheet metal, or similar materials is prohibited. Henhouses and chicken tractors shall be well maintained.
7. Henhouses, chicken tractors, and chicken pens shall be located in the rear yard required by this Code of Ordinances, unless the setback requirements cannot be met, in which case they may be kept in other yard but within the required setbacks.
8. Henhouses, chicken tractors, and chicken pens must be located at least ten (10) feet from the property line and at least twenty-five (25) feet from any adjacent residential dwelling, church, school, or place of business.
9. Any enclosed chicken pen shall consist of sturdy wire fencing. The pen must be covered with wire, aviary netting, or solid roofing.

56.07 ODOR AND NOISE IMPACTS.

1. Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible beyond the boundaries of the permitted tract of land.
2. Noise from chickens shall not be loud enough beyond the boundaries of the permitted tract of land to disturb persons of reasonable sensitivity.

56.08 PREDATORS, RODENTS, INSECTS AND PARASITES. The permittee shall take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites. Chickens found to be infested with insects and parasites that may result in unhealthy conditions to human habitation may be removed by an animal control officer.

56.09 FEED AND WATER. Chickens shall be provided with access to feed and clean water at all times. The feed and water shall be unavailable to rodents, wild birds, and predators.

56.10 WASTE STORAGE AND REMOVAL. All stored manure shall be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet

of manure shall be stored on the permitted tract of land. All other manure not used for composting or fertilizing shall be kept free from trash and accumulated droppings. Uneaten feed shall be removed in a timely manner.

56.11 CHICKENS AT LARGE. The permittee shall not allow the permittee's chickens to roam off the permitted tract of land. No dog or cat or other domesticated animal which kills a chicken off the permitted tract of land will be considered—for that reason alone—a dangerous or aggressive animal or the City's responsibility to enforce its animal control provisions.

56.12 UNLAWFUL ACTS.

1. It is unlawful for any person to keep chickens in violation of any provision of this chapter or any other provisions of this Code of Ordinances.
2. It is unlawful for any owner, renter, or leaseholder of property to allow chickens to be kept on the property in violation of the provisions of this chapter.
3. No person shall keep chickens inside a single-family dwelling unit, multi-family dwelling unit or rental unit.
4. No person shall slaughter any chickens within the City.
5. No person shall keep a rooster.
6. No person shall keep chickens on a vacant or uninhabited tract of land.

56.13 NUISANCES. Any violation of the terms of this chapter which constitutes a health hazard or interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under the general nuisance abatement provisions of Chapter 50 of this Code of Ordinances.

CHAPTER 57

DANGEROUS AND VICIOUS ANIMALS

57.01 Definitions

57.02 Keeping of Dangerous Animals Prohibited

57.03 Keeping of Vicious Animals Prohibited

57.04 Seizure, Impoundment and Disposition

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

1. “Dangerous animal” means:
 - A. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so;
 - B. Any animal declared to be dangerous by the County Board of Health or Council or its designee;
 - C. Dangerous wild animals as defined in Iowa Code 717F.1;
 - D. The following animals, which are deemed to be dangerous animals per se:
 - (1) Badgers, wolverines, weasels, skunk and mink;
 - (2) Raccoons and opossums;
 - (3) Bats;
 - (4) Scorpions;
 - E. Any dog or other animal which has a known propensity, tendency or disposition to attack human beings or domestic animals without provocation, as evidenced by its habitual or repeated chasing, snapping or barking at human beings or domestic animals so as to potentially cause injury to or to otherwise endanger their safety; or any dog or other animal that manifests a disposition to snap or bite.
2. “Vicious animal” means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or persons while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a twelve-month period; or (b) did bite or claw once causing injuries above the shoulders of a person; or (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or (d) has attacked any domestic animal or fowl on three separate occasions within a twelve-month period or (e) has once killed any domestic animal or fowl.

57.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor 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 for exhibition to the public by a licensed traveling circus, carnival, exhibit or show.
2. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Code of Iowa.

57.03 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter or harbor for any reason within the City a vicious animal except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs; however, guard dogs, must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the local law enforcement officers and city officials that a guard dog is on duty at said premises.

57.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or Police Officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.
2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the mayor or peace officer shall cause the matter to be investigated and if after investigation, the facts indicate that a person is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor or Police Officer shall order the person to safely remove such animal from the City, permanently place the animal with an organization or group allowed to possess dangerous or vicious animals, or destroy the animal within three (3) days of receipt of such an order. Such order shall be contained in a notice to remove dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor or Police Officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
3. The order to remove a dangerous animal or vicious animal issued by the Mayor or Police Officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Mayor or Police Officer.

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

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

(Ch. 57 - Ord. 250 – Oct-15 Supp.)

[The next page is 301]

CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title

60.02 Definitions

60.03 Administration and Enforcement

60.04 Power to Direct Traffic

60.05 Reports of Traffic Accidents

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

60.08 Parades Regulated

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

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

(Code of Iowa, Sec. 321.1)

1. “Business District” means the territory contiguous to and including the following designated streets:
 - A. Second Street from Summit Avenue to Jefferson Avenue.
 - B. Rose Street from Division Street to Third Street.
 - C. Summit Avenue from Division Street to Third Street.
 - D. Central Street from Third Street to Second Street.
2. “Park” or “parking” means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. “Peace officer” means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.
4. “Residence district” means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. “School district” means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. “Stand” or “standing” means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. “Stop” means when required, the complete cessation of movement.
8. “Stop” or “stopping” means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.

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

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

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

60.03 ADMINISTRATION AND ENFORCEMENT. Provisions of this chapter 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 REPORTS OF TRAFFIC ACCIDENTS. 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)

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

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

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Clerk. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to

parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

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

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

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation and Maintenance
61.02 Compliance
61.03 Crosswalks

61.04 Traffic Lanes
61.05 Standards

61.01 INSTALLATION AND MAINTENANCE. The Council shall establish by resolution, and cause to be placed and maintained, appropriate traffic control devices to indicate parking spaces and zones, no parking zones, limited parking zones, reserved parking zones, loading zones, safety zones, school zones, hospital zones, quiet zones, traffic zones other than the above, truck routes, school stops, stop intersections, yield right-of-way intersections, one-way streets, streets to be laned for traffic and play streets. The Council shall also have the power to designate and indicate by resolution intersections at which traffic shall be controlled by traffic signals; intersections at which left turns, right turns and U-turns shall be prohibited; and intersections at which markers, buttons or other indications shall be placed to indicate the course to be traveled by vehicles traversing or turning at such intersections. The City shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.254 & 321.255)

61.02 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)

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

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

61.04 TRAFFIC LANES. Where traffic lanes have been marked on street pavements at such places as traffic conditions require, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

61.05 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)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicles

62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Engine Brakes and Compression Brakes:
Prohibited Noises

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; exception.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses against title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed.
15. Section 321.174A – Operation of motor vehicles with expired license.
16. Section 321.180 – Instruction permits.
17. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restricted licenses.
19. Section 321.194 – Special minor’s licenses.
20. Section 321.208A – Operation in violation of out-of-service order.
21. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
22. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.

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

55. Section 321.299 – Overtaking a vehicle.
56. Section 321.302 – Overtaking and passing.
57. Section 321.303 – Limitations on overtaking on the left.
58. Section 321.304 – Prohibited passing.
59. Section 321.306 – Roadways laned for traffic.
60. Section 321.307 – Following too closely.
61. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
62. Section 321.309 – Towing; convoys; drawbars.
63. Section 321.310 – Towing four-wheel trailers.
64. Section 321.312 – Turning on curve or crest of grade.
65. Section 321.313 – Starting parked vehicle.
66. Section 321.314 – When signal required.
67. Section 321.315 – Signal continuous.
68. Section 321.316 – Stopping.
69. Section 321.317 – Signals by hand and arm or signal device.
70. Section 321.318 – Method of giving hand and arm signals.
71. Section 321.319 – Entering intersections from different highways.
72. Section 321.320 – Left turns; yielding.
73. Section 321.321 – Entering through highways.
74. Section 321.322 – Vehicles entering stop or yield intersection.
75. Section 321.323 – Moving vehicle backward on highway.
76. Section 321.323A – Approaching certain stationary vehicles.
77. Section 321.324 – Operation on approach of emergency vehicles.
78. Section 321.324A – Funeral processions.
79. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
80. Section 321.330 – Use of crosswalks.
81. Section 321.332 – White canes restricted to blind persons.
82. Section 321.333 – Duty of drivers approaching blind persons.
83. Section 321.340 – Driving through safety zone.
84. Section 321.341 – Obedience to signal indicating approach of railroad train or railroad track equipment.
85. Section 321.342 – Stop at certain railroad crossings; posting warning.
86. Section 321.343 – Certain vehicles must stop.
87. Section 321.344 – Heavy equipment at crossing.

88. Section 321.344B – Immediate safety threat; penalty.
89. Section 321.354 – Stopping on traveled way.
90. Section 321.359 – Moving other vehicle.
91. Section 321.362 – Unattended motor vehicle.
92. Section 321.363 – Obstruction to driver’s view.
93. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.
94. Section 321.365 – Coasting prohibited.
95. Section 321.367 – Following fire apparatus.
96. Section 321.368 – Crossing fire hose.
97. Section 321.369 – Putting debris on highway.
98. Section 321.370 – Removing injurious material.
99. Section 321.371 – Clearing up wrecks.
100. Section 321.372 – School buses.
101. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
102. Section 321.381A – Operation of low-speed vehicles.
103. Section 321.382 – Upgrade pulls; minimum speed.
104. Section 321.383 – Exceptions; slow vehicles identified.
105. Section 321.384 – When lighted lamps required.
106. Section 321.385 – Head lamps on motor vehicles.
107. Section 321.386 – Head lamps on motorcycles and motorized bicycles.
108. Section 321.387 – Rear lamps.
109. Section 321.388 – Illuminating plates.
110. Section 321.389 – Reflector requirement.
111. Section 321.390 – Reflector requirements.
112. Section 321.392 – Clearance and identification lights.
113. Section 321.393 – Color and mounting.
114. Section 321.394 – Lamp or flag on projecting load.
115. Section 321.395 – Lamps on parked vehicles.
116. Section 321.398 – Lamps on other vehicles and equipment.
117. Section 321.402 – Spot lamps.
118. Section 321.403 – Auxiliary driving lamps.
119. Section 321.404 – Signal lamps and signal devices.
120. Section 321.404A – Light-restricting devices prohibited.
121. Section 321.405 – Self-illumination.

122. Section 321.408 – Back-up lamps.
123. Section 321.409 – Mandatory lighting equipment.
124. Section 321.415 – Required usage of lighting devices.
125. Section 321.417 – Single-beam road-lighting equipment.
126. Section 321.418 – Alternate road-lighting equipment.
127. Section 321.419 – Number of driving lamps required or permitted.
128. Section 321.420 – Number of lamps lighted.
129. Section 321.421 – Special restrictions on lamps.
130. Section 321.422 – Red light in front.
131. Section 321.423 – Flashing lights.
132. Section 321.430 – Brake, hitch, and control requirements.
133. Section 321.431 – Performance ability.
134. Section 321.432 – Horns and warning devices.
135. Section 321.433 – Sirens, whistles, and bells prohibited.
136. Section 321.434 – Bicycle sirens or whistles.
137. Section 321.436 – Mufflers, prevention of noise.
138. Section 321.437 – Mirrors.
139. Section 321.438 – Windshields and windows.
140. Section 321.439 – Windshield wipers.
141. Section 321.440 – Restrictions as to tire equipment.
142. Section 321.441 – Metal tires prohibited.
143. Section 321.442 – Projections on wheels.
144. Section 321.444 – Safety glass.
145. Section 321.445 – Safety belts and safety harnesses; use required.
146. Section 321.446 – Child restraint devices.
147. Section 321.449 – Motor carrier safety regulations.
148. Section 321.449A – Rail crew transport drivers.
149. Section 321.450 – Hazardous materials transportation.
150. Section 321.454 – Width of vehicles.
151. Section 321.455 – Projecting loads on passenger vehicles.
152. Section 321.456 – Height of vehicles; permits.
153. Section 321.457 – Maximum length.
154. Section 321.458 – Loading beyond front.
155. Section 321.460 – Spilling loads on highways.
156. Section 321.461 – Trailers and towed vehicles.

157. Section 321.462 – Drawbars and safety chains.
158. Section 321.463 – Maximum gross weight.
159. Section 321.465 – Weighing vehicles and removal of excess.
160. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Ord. 268 – Jun. 18 Supp.)

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CHAPTER 63

SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.04 Special Speed Restrictions

63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 15 MPH Speed Zones. A speed in excess of fifteen (15) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Summit Avenue from Division Street to “B” Street.
 - B. On “B” Street from Summit Avenue to Central Avenue.
 - C. On Central Avenue from “B” Street to Division Street.
 - D. On Alan Avenue from Division Street to 3rd Street.

(Ord. 260 – Oct. 16 Supp.)

2. Special 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Summit Avenue from Division Street to Fourth Street.
 - B. On Fourth Street from Central Avenue to Jefferson Avenue.
 - C. On Third Street from Central Avenue to Swisher View Drive.
3. Special 25 MPH Speed Zones. A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.
 - A. On Swisher View Drive from Division Street to Oak Street.
 - B. On Division Street from the east corporate limits to the west corporate limits.
4. Special 10 MPH Speed Zones. A speed in excess of ten (10) miles per hour is unlawful on any and all alleys in any district within the corporate limits of the City.

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)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-Turns

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

(Code of Iowa, Sec. 321.311)

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

The Police Chief may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct, as traffic conditions require, that a different course from that specified 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.

(Code of Iowa, Sec. 321.311)

64.02 U-TURNS. It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district and at any intersection where a sign prohibiting U-turns is posted in accordance with Chapter 61 of this Traffic Code.

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop or Yield

65.02 School Stops

65.03 Stop Before Crossing Sidewalk

65.04 Stop When Traffic Is Obstructed

65.05 Yield to Pedestrians in Crosswalks

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

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

(Code of Iowa, Sec. 321.249)

65.03 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)

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

65.05 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)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo
66.02 Permits for Excess Size and Weight
66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges
66.05 Truck Route

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 erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.471 & 472)

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

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

66.03 LOAD LIMITS UPON CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle with a gross weight in excess of the amounts specified on such signs at any time upon any of the streets or parts of streets for which said signs are erected in accordance with Chapter 61 of this Traffic Code.

(Code of Iowa, Sec. 321.473 & 475)

66.04 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Council may cause to be posted and maintained signs, in accordance with Chapter 61 of this Traffic Code, 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 TRUCK ROUTE. When truck routes have been designated in accordance with Chapter 61, any motor vehicle exceeding established weight limits shall comply with the following:

1. Use of Established Routes. Every such motor vehicle having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading shall travel over or upon those streets within the City designated as truck routes and none other.

(Code of Iowa, Sec. 321.473)

2. Deliveries Off Truck Route. Any such motor vehicle, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes to the

nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

3. Employer's Responsibility. The owner, or any other person, employing or otherwise directing the driver of any vehicle shall not require or knowingly permit the operation of such vehicle upon a street in any manner contrary to this section.

(Code of Iowa, Sec. 321.473)

CHAPTER 67
PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking

67.03 Pedestrian Crossing

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)

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CHAPTER 68

ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED. When appropriate signs are in place, as provided for in Chapter 61 of this Traffic Code, vehicular traffic, other than permitted cross traffic, shall move only in the direction indicated on such signs.

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

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CHAPTER 69

PARKING REGULATIONS

69.01 Parking Limited or Controlled

69.02 Parking Adjacent to Curb

69.03 Parking on One-Way Streets

69.04 Angle Parking

69.05 Manner of Angle Parking

69.06 Parking for Certain Purposes Illegal

69.07 Parking Prohibited

69.08 Persons With Disabilities Parking

69.09 Truck Parking Limited

69.10 Residential District Restrictions

69.11 Snow Removal

69.12 Snow Emergency

69.01 PARKING LIMITED OR CONTROLLED. Parking of vehicles shall be controlled or limited where so indicated by designated traffic control devices in accordance with Chapter 61 of this Traffic Code. No person shall stop, park or stand a vehicle in violation of any such posted parking regulations unless in compliance with the directions of a peace officer.

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

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

1. Second Street, on the north side from Rose Street to Central Avenue.
2. "B" Street, on the north side from Summit Avenue to Central Avenue.

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

(Code of Iowa, Sec. 321.361)

69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than forty-eight (48) hours, or as otherwise limited under the provisions of Section 69.01 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 the Code of Ordinances.

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358[5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236[1])
3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236[1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358[1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358[2])
6. Intersection. Within an intersection or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, Sec. 321.358[3])
7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, Sec. 321.358[4])
8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, Sec. 321.358[6])
9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, Sec. 321.358[8])
10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.
(Code of Iowa, Sec. 321.358[9])
11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358[10])
12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, Sec. 321.358[11])

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

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

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

(Code of Iowa, Sec. 321.360)

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

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

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

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

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

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

19. On Private Property. On privately owned property within the City without first obtaining consent from the private property owner or the lawful party in possession.

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

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

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

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

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

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

69.09 TRUCK PARKING LIMITED. No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery or panel delivery trucks.

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

- 1. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo, no person shall park or leave unattended such vehicle on any streets within the business district. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.
- 2. Noise. No such vehicle shall be left standing or parked upon any street, alley, public or private parking lot, or drive of any service station between the hours of 10:00 p.m. and 6:00 a.m. with the engine, auxiliary engine, air compressor, refrigerating equipment or other device in operation giving off audible sounds excepting only the drive of a service station when actually being serviced, and then in no event for more than thirty (30) minutes.
- 3. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than thirty (30) minutes.

69.10 RESIDENTIAL DISTRICT RESTRICTIONS. No person shall park a motor vehicle in any residential district in violation of the following regulations.

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

- 1. Excess Length, Width or Height. Motor vehicles of any type that exceed seven (7) feet in height or eight (8) feet in width or twenty (20) feet in length shall not be parked on any street in a residentially zoned district except for the purpose of loading and unloading or making local deliveries for a period not to exceed four (4) hours.
- 2. Non-Motorized Vehicles. Non-motorized vehicles of any type and size shall not be parked on any street in a residentially zoned district except for the purpose of loading and unloading or making local deliveries for a period not to exceed four (4) hours.
- 3. Flammable Substances. Commercial vehicles that transport detonable materials or flammable solids, liquids or gases shall not be parked on any street in a

residentially zoned district except for the purpose of making local deliveries. The provisions of this subsection do not apply to pickup trucks.

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

(Code of Iowa, 321.236[1])

69.12 SNOW EMERGENCY. The purpose of this section is to provide for a system whereby persons are notified of snow emergencies. Without such an ordinance, cars remain parked on certain streets and effective plowing is curtailed. Consequently, parking places are hard to obtain and cars often park too far from the curb, creating a hazard to other motorists.

1. A snow emergency shall automatically go into effect when snow accumulation reaches two inches. At such time as two inches of snow accumulates on City streets, a snow emergency will go into effect and the parking restrictions set forth herein shall be in effect immediately and without further notice. The City may provide additional notice of the snow emergency as it deems appropriate and necessary.

2. In addition to the provision for automatic snow emergency set forth in subsection 1 above, whenever the Mayor determines, on the basis of falling snow, sleet, freezing rain, or on the basis of a credible weather forecast, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on City streets be prohibited or restricted for snow plowing or other purposes, the Mayor may declare a snow emergency by notifying the City Clerk.

3. No person shall park, abandon, or leave unattended any vehicle on any public street during an automatic or declared snow emergency.

4. A declared snow emergency shall take effect at a time set by the Mayor but not earlier than two hours after it is declared. The Mayor shall declare a snow emergency by notifying the City Clerk, stating the beginning time and, if known, the ending time for the snow emergency. If the office of the Clerk is closed, the Mayor shall file such notice promptly when the office next is opened during normal business hours. The Mayor may cancel such declaration or change the beginning or ending time. Notice shall be given for such cancellations or changes in the same manner as the original snow emergency declaration. The City Clerk shall ensure that notice of declared snow emergencies is promulgated in a timely manner to the public by all appropriate means, as well as promulgate by the same means the cancellation of any snow emergencies.

5. **Enforcement and Towing.** Any person who violates the provisions of this section shall be subject to criminal prosecution in accordance with Chapter 70 and to civil enforcement in accordance with Chapter 3. Each 12-hour period that a vehicle is parked or allowed to remain on any street in violation of this section constitutes a separate and distinct offense. Any vehicles found to be parked where not permitted during a snow emergency may be impounded in accordance with the provisions of Section 70.06.

6. **Appeal.** A violation of this section may be appealed to the City Administrator within thirty (30) days of the date of the violation and prior to a complaint being filed in District Court. In the event of a timely appeal, the City Administrator shall conduct a summary review and then either determine that the case will be enforced in accordance

with the provisions of this section and Chapter 70 or, in the alternative, order administratively that the case be dismissed.

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Alternate

70.04 Parking Violations: Vehicle Unattended

70.05 Presumption in Reference to Illegal Parking

70.06 Impounding Vehicles

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

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or
2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, 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. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of ten dollars (\$10.00) for all violations except improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased by five dollars (\$5.00). The simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00). The fine for snow emergency parking violations is twenty-five dollars (\$25.00).

(Code of Iowa, Sec. 321.236[1b] & 321L.4[2])

70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

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

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

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

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

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

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

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

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

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

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Operation of Snowmobiles

75.05 Operation of All-Terrain Vehicles

75.06 Negligence

75.07 Accident Reports

75.08 Registration

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 vehicle, with not less than three and not more than six non-highway tires, that is limited in engine displacement to less than 1,000 cubic centimeters and in total dry weight to less than 1,200 pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

(Code of Iowa, Sec. 321I.1)

2. “Off-road motorcycle” means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but which contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

(Code of Iowa, Sec. 321I.1)

3. “Off-road utility vehicle” means a motorized vehicle, with not less than four and not more than eight non-highway tires or rubberized tracks, that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. “Off-road utility vehicle” includes the following vehicles:

(Code of Iowa, Sec. 321I.1)

A. “Off-road utility vehicle – Type 1” includes vehicles with a total dry weight of 1,200 pounds or less and a width of 50 inches or less.

B. “Off-road utility vehicle – Type 2” includes vehicles, other than Type 1 vehicles, with a total dry weight of 2,000 pounds or less and a width of 65 inches or less.

C. “Off-road utility vehicle – Type 3” includes vehicles with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

4. “Snowmobile” means a motorized vehicle that weighs less than 1,000 pounds, that uses sled-type runners or skis, endless belt-type tread with a width of 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 that has been altered or equipped with runners, skis, belt-type tracks, or treads.

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

75.03 GENERAL REGULATIONS. ATVs, off-road motorcycle or off-road utility vehicle may operate upon the streets of the City by persons possessing a valid operator’s license at least eighteen (18) years of age, as long as the requirements of this ordinance are met. Follow State required safety equipment and lighting as equipped from the manufacturer, including, but not limited to, headlights, taillights, brake lights, brake, horn, review mirrors, and muffler. Have valid liability insurance covering the ATVs, off-road motorcycle or off-road utility vehicle in the same minimum limits as required of automobiles by the financial responsibility provisions of Iowa Code Chapter 321A as now existing or hereafter amended.

No person shall operate 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, equipment and manner of operation.

(Section 75.03 – Ord. 292 – Sep. 22 Supp.)

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 that 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 that 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[4f])

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 and off-road utility vehicles 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 operation of registered ATVs or registered off-road utility vehicles. In designating such streets, the Council may authorize ATVs and off-road utility vehicles to stop at service stations or convenience stores along a designated street.

(Code of Iowa, Sec. 321I.10[1 and 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 and 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 five hundred dollars (\$1,500.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10 and 321I.11)

75.08 REGISTRATION. (Repealed by Ordinance No. 292 – Sep. 22 Supp.)

(Ord. 280 – Mar. 22 Supp.)

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CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations	76.08 Riding on Sidewalks
76.02 Traffic Code Applies	76.09 Towing
76.03 Double Riding Restricted	76.10 Improper Riding
76.04 Two Abreast Limit	76.11 Parking
76.05 Speed	76.12 Equipment Requirements
76.06 Emerging from Alley or Driveway	76.13 Special Penalty
76.07 Carrying Articles	

76.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

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

76.02 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

76.03 DOUBLE RIDING RESTRICTED. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

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

76.04 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

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

76.05 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

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

76.06 EMERGING FROM ALLEY OR DRIVEWAY. The operator of a bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

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

76.07 CARRYING ARTICLES. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

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

76.08 RIDING ON SIDEWALKS. The following shall apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

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

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

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

3. Yield Right-of-way. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing.

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

76.09 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City unless the vehicle is manufactured for such use.

76.10 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of the operator or others.

76.11 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

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

76.12 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of 300 feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to 300 feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

2. Brakes Required. Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheel skid on dry, level, clean pavement.

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

76.13 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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CHAPTER 77

GOLF CARTS

77.01 Purpose
77.02 Operation of Golf Carts Permitted
77.03 Prohibited Streets
77.04 Equipment

77.05 Hours
77.06 Speed
77.07 Registration

77.01 PURPOSE. The purpose of this chapter is to permit the operation of golf carts on certain streets in the City, as authorized by Section 321.247 of the *Code of Iowa*, as amended. This chapter applies whenever a golf cart is operated on any street or alley, subject to those exceptions stated herein.

77.02 OPERATION OF GOLF CARTS PERMITTED. Golf carts may be operated upon the streets of the City by persons possessing a valid Iowa operator's license and over the age of eighteen (18), except as prohibited in Section 77.03 of this chapter.

77.03 PROHIBITED STREETS. Golf carts shall not be operated upon any City street which is a primary road extension through the City. However, golf carts may cross such a primary road extension. Division Street is hereby designated a primary road extension in the City.

77.04 EQUIPMENT. Golf carts operated upon City streets shall be equipped with a slow moving vehicle sign and a bicycle safety flag, the top of which shall be a minimum of five (5) feet from ground level, at all times during operation and shall be equipped with adequate brakes.

77.05 HOURS. Golf carts may be operated on City streets only between one-half hour after sunrise and one-half hour before sunset.

77.06 SPEED. No golf carts shall be operated at a speed in excess of ten (10) miles per hour.

77.07 REGISTRATION. All golf carts operating on any City street or alley shall be registered with the City annually. All golf carts shall complete a registration form at City Hall prior to operating any golf cart on any City street or alley. The City shall issue a sticker after the golf cart is registered with the City. The sticker shall be affixed to the golf cart in a location that is easily visible. *(Ord. 282 – Jul. 22 Supp.)*

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CHAPTER 78

UTILITY VEHICLES (“UTVS”)

78.01 Purpose

78.02 Definitions

78.03 General Regulations

78.04 Required Equipment

78.05 Hours of Operation

78.06 Speed

78.07 Passengers

78.08 Operation

78.09 Registration

78.10 Violation and Penalty

78.01 PURPOSE. The purpose of this chapter is to permit the operation of UTVs, as authorized by Section 321(I).10 of the *Code of Iowa*, as amended, on certain streets in the City. This chapter applies whenever a UTV is operated on any City street or alley, subject to those exceptions stated herein.

78.02 DEFINITIONS. For the use of this chapter, the following terms are defined:

1. “UTV” means a motorized vehicle, with not less than four nonhighway tires that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total highway dry weight of not more than two thousand pounds and that has a seat that is of bucket or bench design not intended to be straddled by the operator, a steering wheel or control levers for control, and may be equipped with a bed or cargo box for hauling materials. The Mayor shall have the final say on whether a vehicle meets this definition.

78.03 GENERAL REGULATIONS.

1. Operation of UTVs Permitted. UTVs may be operated upon the streets of the City by persons possessing a valid operator’s license and at least eighteen (18) years of age, as long as the requirements of this ordinance are met.

78.04 REQUIRED EQUIPMENT. UTVs operated upon City streets shall be equipped with at least the following:

1. Valid liability insurance covering the UTV in the same minimum limits as required of automobiles by the financial responsibility provisions of Iowa Code Chapter 321A as now existing or hereafter amended.
2. State required safety equipment and lighting from the manufacturer, including, but not limited to, headlights, taillights, brake lights, horn, review mirrors, and seatbelts.

(Section 78.04 – Ord. 293 – Sep. 22 Supp.)

78.05 HOURS OF OPERATION. UTVs may be operated on City streets only between sunrise and sunset. UTVs equipped for and in the process of snow removal activities may be operated outside of sunrise to sunset requirements. UTVs owned and operated by any governmental entity or school district are exempt from these time restrictions when used in the performance of their duties.

78.06 SPEED. UTVs shall be subject to all posted speed limits.

78.07 PASSENGERS. No person may ride on a UTV on any portion not designated to carry passengers. No person may stand on or ride in the cargo area of a UTV while it is in motion. Each person riding in a UTV must be in his or her own seat. No more than three people may ride on a bench seat. No person may ride on the lap of another.

78.08 OPERATION.

1. Except as noted otherwise, in this chapter, any person operating a UTV on any City streets or alleys shall adhere to all traffic signs and signals, all other City of Swisher, County and State of Iowa traffic rules and regulations, and shall obey the orders and direction of any law enforcement officer, authorized to direct or regulate traffic or the direction of a Fire Department office during a fire.

2. This chapter forbids the operation of UTVs on:

A. Any recreational, bike or walking trail, unless permission is granted by the City Council;

B. Sidewalks;

C. City parks or any other land owned by the City, unless permission is granted by the City Council;

D. Private property without the consent of the property owner; and

E. Primary road extensions through the City limits. However, UTVs may cross these roads at approximately a ninety-degree angle after yielding the right-of-way to cross traffic and/or subject to any other traffic signs or signals at such intersections. The primary road extensions for the City are:

(1) Division Street.

UTVs owned and operated by any governmental entity or school district are exempt from this restriction when used in the performance of their duties.

3. Street Etiquette.

A. Except when executing a left turn, UTVs shall be driven as close as practical to the right-hand edge of any street or alley;

B. When necessary to prevent congestion of traffic on City streets, UTVs shall pull to the right-hand edge of streets or alleys and be stopped to allow other motor vehicles traveling in the same direction to pass; and

C. When two or more UTVs are being operated in the same direction and general vicinity on a City street or alley, they shall proceed in single file.

78.09 REGISTRATION. (Repealed by Ordinance No. 293 – Sep. 22 Supp.)

78.10 VIOLATION AND PENALTY.

1. A violation of this chapter shall be considered a simple misdemeanor.

2. Any person who is found to have violated this chapter shall be subject to a fine of \$100.00 plus surcharge and costs. A court appearance shall not be required if the fine is paid in full prior to the date set for the person’s court appearance.

(Ch. 78 – Ord. 279 – Feb. 22 Supp.)

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds from Sales

80.09 Duties of Demolisher

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

(Code of Iowa, Sec. 321.89[1] & Sec. 321.90)

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 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 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 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. “Garage keeper” means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.
4. “Police authority” means the Iowa State Patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority’s own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or

hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity that is a garage keeper to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

(Code of Iowa, Sec. 321.89[2])

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

(Code of Iowa, Sec. 321.89[3a])

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 towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

(Code of Iowa, Sec. 321.89[3a])

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

(Code of Iowa, Sec. 321.89[4])

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two 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])

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CHAPTER 81

RAILROAD REGULATIONS

81.01 Definitions
81.02 Warning Signals

81.03 Obstructing Streets
81.04 Crossing Maintenance

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

1. “Operator” means any individual, partnership, corporation or other association which owns, operates, drives or controls a railroad train.
2. “Railroad train” means an engine or locomotive, with or without cars coupled thereto, operated upon rails.

(Code of Iowa, Sec. 321.1)

81.02 WARNING SIGNALS. Operators shall sound a horn at least one thousand (1,000) feet before a street crossing is reached and after sounding the horn, shall ring the bell continuously until the crossing is passed.

(Code of Iowa, Sec. 327G.13)

81.03 OBSTRUCTING STREETS. Operators shall not operate any train in such a manner as to prevent vehicular use of any highway, street or alley for a period of time in excess of ten (10) minutes except:

(Code of Iowa, Sec. 327G.32)

1. Comply with Signals. When necessary to comply with signals affecting the safety of the movement of trains.
2. Avoid Striking. When necessary to avoid striking any object or person on the track.
3. Disabled. When the train is disabled.
4. Safety Regulations. When necessary to comply with governmental safety regulations including, but not limited to, speed ordinances and speed regulations.
5. In Motion. When the train is in motion except while engaged in switching operations.
6. No Traffic. When there is no vehicular traffic waiting to use the crossing.

An employee is not guilty of a violation of this section if the employee’s action was necessary to comply with the direct order or instructions of a railroad corporation or its supervisors. Guilt is then with the railroad corporation.

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

(Bourett vs. Chicago & N.W. Ry. 152 Iowa 579, 132 N.W. 973[1943])
(Code of Iowa, Sec. 364.11)

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. “B.O.D.” (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. “Building drain” means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
3. “Building sewer” means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.
4. “Connection” means the private connection by a property to the public sanitary sewer system for the purpose of disposal of sanitary sewerage.
5. “Customer” means any person each dwelling unit within a residential building, or each dwelling unit within a multi-family residential building, or each unit within a commercial or industrial building responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. “Dwelling Unit” means a single unit designed for residential use providing complete living facilities used by one or more people including separate provisions for living, sleeping, cooking and sanitation facilities within each dwelling unit. A dwelling unit can be a single-family property. Multiple dwelling units can be located within a duplex, a condominium or a multi-family property.
7. “Garbage” means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
8. “Industrial wastes” means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

9. “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.
10. “Natural outlet” means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
11. “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.
12. “pH” means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
13. “Public sewer” means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
14. “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.
15. “Sanitary sewer” means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
16. “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.
17. “Sewage treatment plant” means any arrangement of devices and structures used for treating sewage.
18. “Sewage works” or “sewage system” means all facilities for collecting, pumping, treating, and disposing of sewage.
19. “Sewer” means a pipe or conduit for carrying sewage.
20. “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.
21. “Slug” means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
22. “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.
23. “Superintendent” means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
24. “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.
25. “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 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 thirty (30) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Connection Charge

96.03 Plumber Required

96.04 Excavations

96.05 Connection Requirements

96.06 Interceptors Required

96.07 Sewer Tap

96.08 Inspection Required

96.09 Property Owner's Responsibility

96.10 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. Refer to the provisions of Chapter 169 of this Code of Ordinances for work within City right-of-way and easements.

96.02 CONNECTION CHARGE. The person who makes the application shall pay a connection charge to the City in accordance with the following schedule:

1. Residential Connection – \$2,000.00.
2. Additional Residential Connection on Lot with Existing Connection – \$150.00.
3. Commercial Connection – \$2,000.00.
4. Industrial Connection – to be determined by the City Engineer after review of the proposed application.
5. Multi-Family Residential - \$2,000.00 per dwelling unit within the building.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a State-licensed plumber.

96.04 EXCAVATIONS. All trench work, excavation, and backfilling required for the installation of a building sewer shall be performed in accordance with the provisions of the *State Plumbing Code* and the provisions of Chapter 135 of this Code of Ordinances.

96.05 CONNECTION REQUIREMENTS. Any connection with a public sanitary sewer must be made under the direct supervision of the Superintendent and in accordance with the following:

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

3. Installation. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the City Plumbing Code. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

96.06 INTERCEPTORS REQUIRED. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:

1. Design and Location. All interceptors shall be of a type and capacity as provided by the City Plumbing Code, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a 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.

96.08 INSPECTION REQUIRED. No building sewer shall be put into use until it has been tested and inspected in accordance with the City Design Standards.

96.09 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.10 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges

97.05 Restricted Discharges; Powers of Superintendent
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as 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 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.
 - A. Any waters or wastes: (i) having a five-day biochemical oxygen demand greater than 300 parts per million by weight; or (ii) containing more

than 350 parts per million by weight of suspended solids; or (iii) 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.

B. 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: (i) reduce the biochemical oxygen demand to 300 parts per million by weight; or (ii) reduce the suspended solids to 350 parts per million by weight; or (iii) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite

sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. **Radioactive Wastes.** Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or federal regulations.
9. **Excess Alkalinity.** Any waters or wastes having a pH in excess of 9.5.
10. **Unusual Wastes.** Materials which exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
 - B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
 - C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
 - D. Unusual volume of flow or concentration of wastes constituting "sludge" 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 OF SUPERINTENDENT. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. **Rejection.** Reject the wastes by requiring disconnection from the public sewage system;
2. **Pretreatment.** Require pretreatment to an acceptable condition for discharge to the public sewers;
3. **Controls Imposed.** Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required

98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required

99.02 Special Rates

99.03 Billing for Sewer Service

99.04 Lien for Nonpayment

99.05 Lien Exemption

99.06 Lien Notice

99.07 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Each customer shall pay sewer service charges, for the use of and for the service supplied by the municipal sanitary sewer system in accordance with the following:

July 1, 2025 to June 30, 2026 Rates:

1. Residential – Each Customer per Connection shall pay a charge of \$84.25 per month.
2. Multi-Family Residential – Each Customer per Connection shall pay a charge of \$84.25 per month.
3. Commercial – Each Customer per Connection shall pay a charge of \$139.25 per month.

July 1, 2026 and thereafter Rates:

1. Residential – Each Customer per Connection shall pay a charge of \$95.50 per month.
2. Multi-Family Residential – Each Customer per Connection shall pay a charge of \$95.50 per month.
3. Commercial – Each Customer per Connection shall pay a charge of \$158.00 per month.

(Section 99.01 – Ord. 08-2024, Oct.14, 2024)

99.02 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.01 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.03 BILLING FOR SEWER SERVICE. Sewer service charges 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 20th of each month.
3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A late payment penalty of \$15.00 monthly shall be added to each delinquent bill.

99.04 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.05 LIEN EXEMPTION.

1. Exemption. The lien for nonpayment shall not apply to the charges for any of the services of sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal for a residential rental property where the charge is 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 for such service. The City may require a deposit not exceeding the usual cost of ninety (90) days of such services to be paid to the City. When the tenant moves from the rental property, the City shall refund the deposit if all service charges are paid in full. The lien exemption does not apply to delinquent charges for repairs related to any of the services.

2. Written Notice. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. Upon receipt, the City shall acknowledge the notice and deposit. A change in tenant for a residential rental property shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. A change in tenant for a commercial rental property shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within thirty (30) business days of the completion of the change of ownership.

99.06 LIEN NOTICE. A lien for delinquent sewer service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

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CHAPTER 100

SEWER EXTENSIONS

100.01 Purpose

100.02 Definition

100.03 Construction by City

100.04 Construction by Owner

100.05 Building Sewers Installed

100.01 PURPOSE. The purpose of this chapter is to provide a means and method for the extension of sewers to serve property not served by an existing sewer line so as to preserve and improve the peace, safety, health, welfare, comfort and convenience of the residents of the City.

100.02 DEFINITION. For the purpose of this chapter, “builder” means the owner of land who causes a sanitary sewer to be installed under the provisions of this chapter. Such term includes the heirs, successors or assigns of such owner.

100.03 CONSTRUCTION BY CITY. An owner of land abutting or adjoining a property or a public street where no sanitary sewer has been installed may make application to the Council for the installation of a sanitary sewer in said street for the purpose of serving the property in accordance with the following:

1. **Application and Deposit.** A written request for such installation, and a sum equal to the cost as estimated by the City of construction from the point where the sanitary sewer is presently installed and terminates to the point where the most distance boundary of the owner’s lot abuts the said public street, shall be submitted to the Council.
2. **Construction.** Upon receipt of the deposit, the City shall construct the sanitary sewer for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.
3. **Additional Costs.** In the event the actual cost to the City of installation of the sanitary sewer is in excess of the estimated cost, the builder agrees to reimburse the City for the actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.
4. **Lien Authorized.** In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder’s real estate. In the written request for installation of the sanitary sewer, the landowner shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.
5. **Connecting Property.** The expense of connecting the property of the builder to the sanitary sewer laid in the public street shall be borne by the builder, in addition to the cost of constructing said sewer, but such connection shall be under the supervision of the City.

100.04 CONSTRUCTION BY OWNER. In the event an owner of land abutting or adjoining a public street in which no sewer has been previously installed desires to construct

said sewer at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a sewer, in accordance with the following:

1. City Supervision. The installation of such a sewer by a landowner at the owner's expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.
2. Performance, Payment and Maintenance Bonds. When making application to the City for a permit to install such a sewer, the applicant shall post with the City a Performance and Payment Bond, and a Maintenance Bond, per the requirements set forth by the Council in the City Design Standards.
3. Ownership of Sewer Line. After the sewer has been installed, it shall become the property of the City.

100.05 BUILDING SEWERS INSTALLED. Each sanitary sewer constructed in a public street or right-of-way, whether constructed by the City or by a private party, shall include a stub to each abutting or adjoining lot line of the street or right-of-way on which the sewer is installed. Each party responsible for installing such sewer shall provide the City with an accurate map showing the location of each of such stubs within thirty (30) days of the completion of the installation.

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CHAPTER 101

STORM WATER DRAINAGE UTILITY

101.01 Purpose

101.02 Definitions

101.03 Storm Water Drainage Utility Established

101.04 Rates

101.05 Payment of Bills

101.06 Lien for Nonpayment

101.07 City Council

101.08 Prohibited Acts

101.09 Right of Entry

101.10 Penalties

101.01 PURPOSE. The purpose of this chapter is to establish a Storm Water Drainage Utility and provide a means of funding the construction, operation and maintenance of storm water systems, but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains and cleaning of streets. The City Council finds that construction, operation and maintenance of the City's storm and surface water drainage system should be funded through charging users of property which may connect or discharge directly, or indirectly, into the storm and surface water drainage system.

101.02 DEFINITIONS. For use in this chapter, unless the context specifically indicates otherwise, the following terms are defined:

1. "Connection" means the physical act or process of tapping a public storm water sewer or drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm and surface water sources or systems to the public storm and surface water system. It also includes creation or maintenance of impervious surface that causes or is likely to cause an increase in the quantity or decrease in quality or both from the natural state of storm water runoff, and which drains, directly or indirectly, to the storm and surface water system.
2. "Storm and surface water drainage system" means any combination of publicly owned storm and surface water quantity and quality facilities, pumping or lift facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including grates and covers thereof, detention and retention facilities, laboratory facilities and equipment, and any other publicly owned facilities for the collection, conveyance, treatment and disposal of storm and surface water system within the City, to which sanitary sewage flows are not intentionally admitted.
3. "Unit" means each household, each place of commerce, education, government, religion, or each industry, whether in a single building on a single or in a multiple-use building on a single lot or multiple lot complex. Each unit shall be charged individually, but where the complex is billed under one combined service account, the recipient of that bill shall be deemed the user and receive the total combined storm water drainage system district charge for that complex.
4. "User" means any person who uses any property located in City limits that maintains connection to, discharges to or otherwise receives services from the City for storm water management. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has a right to occupy it shall be deemed the user.

101.03 STORM WATER DRAINAGE UTILITY ESTABLISHED. Pursuant to the authority of Section 384.84(5) of the *Code of Iowa*, the entire City of Swisher is hereby declared a

Storm Water Drainage System District for the purpose of establishing, imposing, adjusting and providing for the collection of rates for the operation and maintenance of storm water management. The entire City, as increased from time to time by annexation, shall constitute a single Storm Water Drainage System District.

(Code of Iowa, Sec. 384.84(5))

101.04 RATES. Each user shall pay for storm and surface water drainage system service provided by the City. The rates for the operation and maintenance of the storm water management facilities shall be collected by imposing a monthly rate on each residential, commercial and industrial user within the City. The service charges shall be billed as part of a combination service account which means a customer service account for the provision of one or more utility services. The City Council may adopt rules, charges, rates and fees for the use of the City's storm and surface water system, and for services provided by the City relating to that system. Such rules may include delinquency and interest charges and penalties. Such charges and fees shall be just and equitable based on the actual costs, or anticipated costs, of operation, maintenance, acquisition, establishment, extension and replacement of the City's system, the cost of bond repayment, regulation, administration, and services of the City. The rates for the foregoing functions shall be collected by imposing a monthly rate of \$5.00 on every residential unit, and \$8.00 on every commercial unit. Property owned by the City is exempt from the requirements of this chapter.

101.05 PAYMENT OF BILLS. All Storm Water Drainage System District charges shall be due and payable under the same terms and conditions provided for payment of a combined service account as contained in Chapter 99 of this Code of Ordinances.

101.06 LIEN FOR NONPAYMENT. The owner of the premises served, and any lessee or tenant thereof shall be jointly and severally liable for charges for the operation and maintenance of the storm water management system. Any such charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the City Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84(4))

101.07 CITY COUNCIL. The City Council has the following powers and duties related to the City of Swisher's Storm Water Drainage Utility:

1. Operations and Maintenance. Operation and maintenance of the storm water management systems.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of the chapter.
3. Records. Maintain a complete and accurate record of all storm water management systems and facilities.
4. Policies. Establish policies to be adopted and enforced and to implement the provisions of this chapter.

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

1. Damage Storm Water Management Systems. No person or entity shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any of the structure, pipe, appurtenance, or equipment which is part of the storm water management systems or facilities.

2. **Illicit Discharges.** No person or entity shall throw, drain, or otherwise discharge or allow or cause to throw, drain, run, or allow to seep or otherwise be discharged into the City of Swisher's storm water management system and facilities, including, but not limited to, pollutants or waters containing any pollutants, other than storm water.
3. **Manholes.** No person or entity shall open or enter any manhole, structure, or intake of the storm water system, except as authorized by the City Superintendent.
4. **Connection.** No person or entity shall connect any private storm water system to the City's storm water management system and facilities, except as authorized by the City Council.

101.09 RIGHT OF ENTRY. The public works, and other authorized employees of the City of Swisher displaying proper credentials and identification shall be permitted to enter all private properties for the purpose of inspection, observation, measurement, sampling and testing all private storm water discharges directly or indirectly entering into the public storm water management systems or facility in accordance with the provisions of this chapter.

101.10 PENALITIES. The following penalty provisions shall apply to violations of this chapter:

1. **Notice of Violation.** Any person or entity found to be in violation of any provision of this chapter shall be served by the City of Swisher with written notice stating the nature of the violation and provide reasonable time for correcting the violation. The offending person or entity, within the time stated in such notice, will permanently remedy all violations. Remedying the violations does not waive any claim the City may have against the offending person or entity for related damages caused by the violation or violations.
2. **Continuing Violations.** Any person or entity who shall continue any violation beyond the time limit to remedy the violations as provided in Subsection 1 above, shall be subject to civil penalties as set forth in Chapter 3, Municipal Infractions, of this Code of Ordinances.
3. **Liability Imposed.** Any person or entity violating any of the provisions of this chapter shall be liable to the City for any expense, loss or damage incurred by the City caused by the violation.

(Ch. 101 – Ord. 270 – Jul. 18 Supp.)

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose	105.07 Littering Prohibited
105.02 Definitions	105.08 Open Dumping Prohibited
105.03 Sanitary Disposal Required	105.09 Toxic and Hazardous Waste
105.04 Health and Fire Hazard	105.10 Waste Storage Containers
105.05 Open Burning Restricted	105.11 Prohibited Practices
105.06 Separation of Yard Waste Required	105.12 Recycling Program

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)
9. “Residential premises” means a single-family dwelling and any multiple-family dwelling.

10. “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])

11. “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)

12. “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)

13. “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)

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

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

- A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.
- B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.
- C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.
- D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.
- E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner’s premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

6. Residential Waste. Backyard burning of residential waste at dwellings of four-family units or less.

(IAC, 567-23.2[3f])

7. Training Fires. Fires set for the purpose of conducting bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

8. Pesticide Containers and Seed Corn Bags. The disposal by open burning of paper or plastic pesticide containers (except those formerly containing organic forms of beryllium, selenium, mercury, lead, cadmium or arsenic) and seed corn bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3h])

9. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3i])

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

(IAC, 567-23.2[3j])

11. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources.

(IAC, 567-23.2[2])

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in acceptable containers and set out for collection. As used in this section, “yard waste” means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director 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 rubble at places other than a sanitary disposal project. “Rubble” means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water or in a flood plain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, 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 that requires special handling and

that 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 the City.
2. **Storage of Containers.** Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. **Location of Containers for Collection.** Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twelve (12) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.
4. **Nonconforming Containers.** Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. **Unlawful Use of Containers.** Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. **Interfere with Collectors.** Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.12 RECYCLING PROGRAM. The City shall provide for the collection of recyclable material in accordance with the provisions of the contract between the City and the collector. All recyclable material shall be separated and prepared for collection in accordance with the rules and regulations as established by the collector.

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CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish

106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fee
106.09 Lien for Nonpayment

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 residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEE. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected a fee therefor in accordance with the following:

1. Fee. The fee for solid waste and recycling collection and disposal service is \$18.50 per month for each dwelling unit.
2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 99.03 of this Code of Ordinances and the provisions contained in Section 99.06 relating to lien notices shall also apply in event of a delinquent account.

(Section 106.08 – Ord. 278 – Jun. 21 Supp.)

106.09 LIEN FOR NONPAYMENT. Except as provided for in Section 99.05 of this Code of Ordinances, the owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Rights and Privileges
110.03 Pipes and Mains
110.04 Construction and Maintenance
110.05 Excavations
110.06 Utility Easements
110.07 Relocation not Required

110.08 Relocation Reimbursement
110.09 Information
110.10 Indemnification
110.11 Applicable Regulations
110.12 Franchise Fee
110.13 Management Fees
110.14 Termination

110.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called “Company,”) and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City of Swisher, Iowa, (hereinafter called the “City,”) a gas distribution system, to furnish natural gas along, under and upon the right-of-way, streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. The Company is granted the right to exercise of powers of eminent domain, subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance.[†]

110.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* 2015, or as subsequently amended or changed.

110.03 PIPES AND MAINS. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to unreasonably interfere with any above or below-ground utility services or facilities which have been or may hereafter be located by or under authority of the City.

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company’s tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended (“Tariff,”) at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction, maintenance or repair of the street or alley. Relocation expenses for other hard surfaces, including pedestrian and non- motorized vehicle pathways, will be paid by the City. If the City has a reasonable alternative route for the street, alley or public improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall select said alternative route, or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross

[†] **EDITOR’S NOTE:** Ordinance No. 256, adopting a natural gas franchise for the City, was passed and adopted on June 13, 2016.

section drawings. If vegetation or tree removal must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree removals does not coincide with the Company facilities relocation schedule and Company must remove vegetation or trees that are included in the City's portion of the project, the City shall either remove the vegetation or trees at its cost or reimburse the Company for the expenses incurred to remove said trees or vegetation. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

110.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. Company agrees any replacement of road surface shall conform to current City code regarding its depth and composition. The Company shall not be required to restore or modify public right-of-way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition or to a condition exceeding its previously existing condition to the extent any alterations are required for the City to comply with city, state or federal rules, regulations or laws.

110.06 UTILITY EASEMENTS. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has gas lines, mains or facilities, the City shall provide Company with not less than sixty (60) days advance notice of the City's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for the existing Company facilities.

110.07 RELOCATION NOT REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right-of-way that have been relocated at Company expense at the direction of the City in the previous ten (10) years.

110.08 RELOCATION REIMBURSEMENT. Pursuant to relocation of Company facilities as may be required here under, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly or indirectly facilitate the project of a commercial or private developer or other non-public entity, City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation. The Company shall not be required to relocate in order to facilitate such private project at its expense.

110.09 INFORMATION. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control that is located in the public right-of-way, including documents, maps and other information in paper or electronic or other forms ("Information"). The Company and City recognize the Information may in whole or part be considered a confidential record under State or Federal law or both. Upon receipt of a request from a third party for information concerning information about the Company's facilities within the City, the City will promptly submit same to Company. If the Company believes any of the information requested constitutes a trade secret which may otherwise be

protected from public disclosure by state or federal law, or otherwise exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time, then the Company shall provide the City with a written explanation of the basis for such assertion of confidentiality or exemption from disclosure within ten (10) days.

110.10 INDEMNIFICATION. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

110.11 APPLICABLE REGULATIONS. The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board the Company's tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

110.12 FRANCHISE FEE. A franchise fee of zero percent is imposed upon, and shall be collected from, the natural gas customers of the Company receiving service and located within the corporate limits of the City. The franchise fee shall be imposed upon the gross receipts, minus uncollectible accounts, generated from sales of natural gas and distribution service:

1. The City agrees to modify the level of franchise fees imposed only once in any 24-month period.
2. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee.
3. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than sixty (60) days after receiving annexation ordinances from the City.
4. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

110.13 MANAGEMENT FEES. Upon implementation of a franchise fee the City shall not, pursuant to Chapter 480A.6 of the *Code of Iowa*, impose or charge Company right-of-way

management fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting, or inspections of Company work sites and projects or related matters.

110.14 TERMINATION. Either City or Company (“party”) may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have 60 days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with State or Federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

(Ch. 110 – Ord. 256 – Jun. 16 Supp.)

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CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Placement of Facilities
111.03 Excavations
111.04 Location of Facilities
111.05 Installation of Meters

111.06 Quality of System
111.07 Nonexclusive Franchise
111.08 No Interruption of Service
111.09 Term of Franchise

111.01 FRANCHISE GRANTED. There is hereby granted unto Interstate Power Company, herein called the “Company,” its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places transmission lines through the City, to supply individuals, corporations, communities, and municipalities both inside and outside of the City with electric light, heat and power for the period of twenty-five (25) years,[†] and also includes the right of eminent domain as provided in Section 364.2 of the *Code of Iowa*.

111.02 PLACEMENT OF FACILITIES. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

111.03 EXCAVATIONS. In making any excavations in any street, alley, avenue or public place, the Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical.

111.04 LOCATION OF FACILITIES. The Company shall, at its cost, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement thereof, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for any reason other than as specified above, or as the result of the initial request of a commercial or private developer, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not

[†] **EDITOR’S NOTE:** Ordinance No. 232, adopting an electric franchise for the City, was passed and adopted on July 11, 2011.

arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities as part of its relocation request. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Prior to vacating a public right-of-way, the Company shall be provided an opportunity to secure an easement to allow it to operate and maintain its existing facilities.

111.05 INSTALLATION OF METERS. The Company, its successors and assigns, shall furnish and install all meters at their own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

111.06 QUALITY OF SYSTEM. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and its inhabitants and shall be kept in a modern and up-to-date condition.

111.07 NONEXCLUSIVE FRANCHISE. The franchise granted by this chapter shall not be exclusive.

111.08 NO INTERRUPTION OF SERVICE. Service to be rendered by the Company under this chapter shall be continuous unless prevented from doing so by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

111.09 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted hereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation

120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

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, and 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, and 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 a retail alcohol license, shall endorse its approval or disapproval on the application, and shall forward the application with the necessary fee and bond, if required, to the Iowa Department of Revenue.

(Ord. 300 – Oct. 23 Supp.)

(Code of Iowa, Sec. 123.32[2])

120.05 PROHIBITED SALES AND ACTS. A person holding a retail alcohol license and the person'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 beverage.

(Code of Iowa, Sec. 123.49[1])

2. Sell or dispense any alcoholic beverage on the premises covered by the license or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on any day of the week.

(Code of Iowa, Sec. 123.49[2b])

3. Sell alcoholic beverages 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 18 years of age in the sale or serving of alcoholic beverages for consumption on the premises where sold, except as follows:

A. Definitions. For use in this subsection the following terms are defined as follows:

(1) “Bar” means an establishment where one may purchase alcoholic beverages for consumption on the premises and in which the serving of food is only incidental to the consumption of those beverages.

(Code of Iowa, Sec. 142D.2[1])

(2) “Restaurant” means eating establishments, including private and public school cafeterias, which offer food to the public, guests, or employees, including the kitchen and catering facilities in which food is prepared on the premises for serving elsewhere, and including a bar area within a restaurant.

(Code of Iowa, Sec. 142D.2[17])

B. This subsection shall not apply if the employer has, on file, written permission from the parent, guardian, or legal custodian of a person 16 or 17 years of age for the person to sell or serve alcoholic beverages for consumption on the premises where sold. However, a person 16 or 17 years of age shall not work in a bar as defined in Paragraph A.

(1) The employer shall keep a copy of the written permission on file until the person is either 18 years of age or no longer engaged in the sale of or serving alcoholic beverages for consumption on the premises where sold.

(2) If written permission is on file in accordance with Paragraph B, a person 16 or 17 years of age may sell or serve alcoholic beverages in a restaurant as defined above in Paragraph A during the hours in which the restaurant serves food.

C. A person 16 or 17 years of age shall not sell or serve alcoholic beverages under this subsection unless at least two employees 18 years of age or older are physically present in the area where alcoholic beverages are sold or served.

D. If a person employed under this subsection reports an incident of workplace harassment to the employer or if the employer otherwise becomes aware of such an incident, the employer shall report the incident to the employee’s parent, guardian, or legal custodian and to the Iowa Civil Rights Commission, which shall determine if any action is necessary or appropriate under Chapter 216 of the *Code of Iowa*.

E. An employer that employs a person under this subsection shall require the person to attend training on prevention and response to sexual harassment upon commencing employment.

F. Prior to a person commencing employment under this subsection, the employer shall notify the employer’s dramshop liability insurer, in a form and

time period prescribed by the Director, that the employer is employing a person under this subsection.

(Code of Iowa, Sec. 123.49[2f])

5. In the case of a retail wine or beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to wine, beer, 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.

(Code of Iowa, Sec. 123.49[2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license.

(Code of Iowa, Sec. 123.49[2j])

8. Keep on premises covered by a retail alcohol license any alcoholic liquor in any container except the original package purchased from the Iowa Department of Revenue and except mixed drinks or cocktails mixed on the premises for immediate consumption. However, mixed drinks or cocktails that are mixed on the premises and are not for immediate consumption may be consumed on the licensed premises, subject to rules adopted by the Iowa Department of Revenue.

(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 that has been reused or adulterated.

(Code of Iowa, Sec. 123.49[2e])

10. Allow any person other than the licensee or employees of the licensee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container that is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49[2g])

11. Sell, give, possess, or otherwise supply a machine that is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

(Code of Iowa, Sec. 123.49[2k])

(Section 120.05 – Ord. 300 – Oct. 23 Supp.)

120.06 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

(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 that 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, or an employee of a 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
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration

121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. “Alternative nicotine product” means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. “Alternative nicotine product” does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.
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. “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.
4. “Retailer” means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products, irrespective of the quantity or amount or the number of sales, or who engages in the business of selling tobacco, tobacco products, alternative nicotine products, or vapor products to ultimate consumers.
5. “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.
6. “Tobacco products” means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; 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.
7. “Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar

product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Federal Food, Drug, and Cosmetic Act.

121.02 PERMIT REQUIRED.

1. Retail Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes, alternative nicotine products, or vapor products at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes, alternative nicotine products, or vapor products within the City without a valid permit for each place of business. The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

(Code of Iowa, Sec. 453A.13)

2. Retail Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco, tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a retail cigarette permit is not required to also obtain a retail tobacco permit. However, if a retailer only holds a retail cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any tobacco, tobacco products, alternative nicotine products, or vapor products, during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department 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 and 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 and 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit to the Iowa Department of Revenue within 30 days of issuance of a permit. *(Ord. 301 – Oct. 23 Supp.)*

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. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under 21 years of age. The provision of this section includes prohibiting a person under 21 years of age from purchasing tobacco, tobacco products, alternative nicotine products, vapor products, and cigarettes 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 \$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 14 days.
2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 or the retailer's permit shall be suspended for a period of 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 years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 30 days.
4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of \$1,500.00 and the retailer's permit shall be suspended for a period of 60 days.
5. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

The Clerk shall give 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])

(Section 121.07 – Ord. 275 – Oct. 20 Supp.)

121.08 SELF-SERVICE SALES PROHIBITED. 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 tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes 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 Alcoholic Beverages Division of the Department of Commerce within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

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CHAPTER 122
PEDDLERS, SOLICITORS AND TRANSIENT
MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 License Fees	122.15 Appeal
122.06 Bond Required	122.16 Effect of Revocation
122.07 License Issued	122.17 Rebates
122.08 Display of License	122.18 License Exemptions
122.09 License Not Transferable	122.19 Charitable and Nonprofit Organizations
122.10 Time Restriction	

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. “Peddler” means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. “Solicitor” means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. “Transient merchant” means any person who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever, or who operates out of a vehicle which is parked anywhere within the City limits. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant’s name, permanent and local address and business address if any. The application shall also set forth the applicant’s employer, if any, and the employer’s address, the nature of the applicant’s business, the last three places of such business and the length of time sought to be covered by the license. An application fee of fifteen dollars (\$15.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. A License fee, for each solicitor (principal or agent), peddler, or transient merchant, as set by Council shall be paid to the Clerk prior to the issuance of any license.

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the *Code of Iowa*.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 6:00 p.m.

122.11 REVOCATION OF LICENSE. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

122.18 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.
3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the College Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.
7. Farmers Markets. Persons conducting sales at farmers markets.

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504 of the *Code of Iowa* desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

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CHAPTER 123

HOUSE MOVERS

123.01 House Mover Defined
123.02 Permit Required
123.03 Application
123.04 Bond Required
123.05 Insurance Required
123.06 Permit Fee

123.07 Permit Issued
123.08 Public Safety
123.09 Time Limit
123.10 Removal by City
123.11 Protect Pavement
123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED. A “house mover” means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any method other than upon a properly licensed vehicle.

123.02 PERMIT REQUIRED. It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved.

123.03 APPLICATION. Application for a house mover’s permit shall be made in writing to the Clerk. The application shall include:

1. Name and Address. The applicant’s full name and address and if a corporation the names and addresses of its principal officers.
2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.
3. Routing Plan. A routing plan approved by the Police Chief, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED. The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee’s payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000 per person; \$100,000 per accident.
2. Property Damage - \$50,000 per accident.

123.06 PERMIT FEE. A permit fee of ten dollars (\$10.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flag persons at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT. No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY. In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT. It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES. The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

CHAPTER 124

DANCE HALLS

124.01 Definitions
124.02 Permit Required
124.03 Application
124.04 Security Officers Required

124.05 Hours
124.06 Minors
124.07 Revocation
124.08 Refund

124.01 DEFINITIONS For use in this chapter the following words are defined:

1. “Public dance hall” means and includes any rooms, hall, or halls where dancing is conducted or where dances are held or permitted, or any establishment which dispenses liquor or beer where dances are held, or where patrons of such dance rooms or halls pay a fee for participating in such dances; whether such fee is paid on the floor of such dance room or halls for admission thereto or for membership cards or tickets, or when said fee, for participating in such dances is paid directly or indirectly.
2. “Public dance” means one which is or may be attended or patronized by the public generally either with or without tickets or invitations and for which a fee for participation for such dance is paid directly or indirectly, or any dance which is held in an establishment that dispenses liquor or beer. Provided, however, dances given or sponsored by fraternal orders, societies, or other organizations, the attendance of which is limited or restricted to members of those organizations and their families, are not considered “public dances” even though a fee for such participation to such dances is paid, directly or indirectly.

124.02 PERMIT REQUIRED. No person, firm or corporation shall offer, conduct or maintain in the City a public dance hall or carry on or give public dances as defined in this chapter without first securing from the Mayor a permit therefor and complying with all the other provisions of this chapter. A permit shall be obtained for each individual dance or an establishment may obtain a permit for a period of one year; however, application for a permit or for renewal for a permit must be made at least ten days prior to the date the dances are to be held or to the date of expiration of the old permit.

124.03 APPLICATION. Applications for such permit shall be in writing and signed by the applicant and shall include:

1. Name and Residence. Name and place of residence of applicant.
2. Location of Building. Location of place of building where applicant intends to operate or hold public dance.
3. Owner. Name of owner and building or property where public dance is to be held. If owner is not the applicant, the applicant must be the actual lessee of the premises.
4. Statement of Safety. Written statement that the place of the building is a safe and proper place for use of a public dance hall.
5. Inspection by Police. Written statement that the applicant consents to the entry of members of the Police Department without a search warrant to inspect the premises for violations of this chapter or any ordinance of the City or statutes of the State of Iowa.

6. Sketch. Detailed sketch and description of the premises. Such sketch will include all rooms and enclosures which are operated in connection with a beer or liquor license wherein the dancing shall be allowed and shall show the area that is designated for dancing and its dimensions. This sketch shall be conclusive as to the extent of premises licensed. The use of any part of the premises for dancing that is not designated on the application shall be deemed a violation of this chapter.

7. Fee. The application shall contain a check or money order or bank draft for the permit fee as established by Resolution of the Council.

124.04 SECURITY OFFICERS REQUIRED. Upon the filing of the application, the Johnson County Sheriff's Department shall inspect the premises and determine the number of security officers required for each individual dance which may be held inside the dance hall. If the permit is to cover the premises for a year, the Sheriff's Office shall designate the security officers required based on the type of dance and the number of patrons in attendance. The cost of providing these security officers shall be borne by the applicant. At any time during the dance that the required number of security officers are not present, such will be considered a violation of this chapter. At the County Sheriff's Department's discretion, the Sheriff may require an additional security officer to ride in the patrol car with the Department, during the hours the dance is being held. This security officer shall be at the expense of the applicant.

124.05 HOURS. No such public dance shall remain open to the public for a later hour than 2:00 a.m. on any day, nor should any public dance be carried on at said place later than 2:00 a.m. on any day unless permission has been obtained from the Council to keep said dance hall open for a later hour than 2:00 a.m., in which case said dance hall be closed by the hour designated by the Council.

124.06 MINORS. It is unlawful to permit any person who has not reached the age of 16 years to attend or remain at any public dance unless this person is accompanied by the parent or a responsible person or guardian having proper custody of such minor.

124.07 REVOCATION. In the event any applicant violates provisions of this chapter, said applicant's permit shall be automatically revoked and no refund shall be made of the permit fee. The Council may revoke a permit for cause, other than that enumerated above, after ten days' notice to the permit holder and a hearing on the matter of said application. The Council shall further determine at said hearing if a refund of a permit fee shall be made on the revocation. If the Council determines at the hearing that the permit is to be revoked, the permit holder will have twenty (20) days in which to appeal the decision to the district court, and if such appeal is not taken the matter will be deemed concluded.

124.08 REFUND. Any permit holder who shall voluntarily surrender a permit shall be entitled to a refund for the balance of the term remaining.

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CHAPTER 125

ADULT CABARETS

125.01 Definitions

125.02 Touching

125.03 Minors

125.04 Gratuities

125.05 Separation of Entertainers and Customers

125.06 Location Restrictions

125.07 Buildings

125.08 Signage

125.09 Penalty Provision

125.10 Exception

125.01 DEFINITIONS. The following definitions are for the terms used in this chapter:

1. “Adult cabaret” means a commercial establishment that features persons such as entertainers or dancers who appear in a state of semi-nudity, or live performances that are characterized by the exposure of specified anatomical areas.
2. “Specified anatomical areas” are less than completely and opaquely covered human genitals, pubic region, buttocks, and the female breast below a point above the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

125.02 TOUCHING. No person appearing as an entertainer in an adult cabaret shall touch, fondle, caress, or sit on the lap of any customer on the premises if the performer is performing semi-nude or revealing specified anatomical areas. No customer shall touch, fondle, or caress any performer in an adult cabaret who is performing semi-nude or revealing specified anatomical areas.

125.03 MINORS. No persons under eighteen (18) years of age shall enter or be on the premises of an adult cabaret at any time the adult cabaret is open for business.

125.04 GRATUITIES. No entertainer appearing at an adult cabaret shall solicit gratuities from customers. No customer shall offer gratuities to an entertainer at an adult cabaret.

125.05 SEPARATION OF ENTERTAINERS AND CUSTOMERS. In the interests of safety, fire concerns, and order, entertainers performing semi-nude or revealing specified anatomical areas in an adult cabaret shall appear on a raised platform at least two feet above the level of the ordinary floor level of the establishment and be at least six feet apart from the customer.

125.06 LOCATION RESTRICTIONS. An adult cabaret shall not be located within 1,000 feet of any church, school, day-care center, public park, or any dwelling.

125.07 BUILDINGS. All openings, entries, windows, and the like of a building housing an adult cabaret shall be covered or screened in such a manner as to prevent a view of the interior from any public or semi-public area.

125.08 SIGNAGE. It is unlawful for any owner or operator of an adult cabaret to erect, construct or maintain a sign for that business other than one primary sign and one secondary sign as provided herein.

1. The signs shall not contain any flashing lights.

2. The signs shall be a flat plane, rectangular in shape.
3. The signs shall contain no photographs, silhouettes, drawings, or pictorial representation in any manner and may contain only the name of the enterprise.
4. Primary signs may have up to two display surfaces. Each display surface shall be no more than 80 square feet in area and not exceed 10 feet in length or ten feet in height.
5. Secondary signs shall have only one display surface, not exceeding 20 feet in area and not exceed five feet on any one side, and be affixed to the wall or door of the building housing the adult cabaret.

125.09 PENALTY PROVISION. The City may elect, at its sole discretion, to prosecute any violation of this chapter either as a simple misdemeanor or a municipal infraction.

125.10 EXCEPTION. The provisions of this chapter shall not apply to a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this chapter were permitted or allowed as part of such art exhibits or performances.

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CHAPTER 126

SEXUALLY ORIENTED BUSINESSES

126.01 Purpose and Intent	126.14 Additional Regulations for Adult Motels
126.02 Definitions	126.15 Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos
126.03 Classification and Standards of Conduct and Operation	126.16 Exterior Portions of Sexually Oriented Businesses
126.04 Permit Required	126.17 Signage
126.05 Issuance of Permit	126.18 Persons Younger Than Eighteen Prohibited
126.06 Fees	126.19 Massages or Baths Administered by Person of Opposite Sex
126.07 Inspection	126.20 Consumption of Alcoholic Beverages Prohibited
126.08 Expiration of Permit	126.21 Separation of Entertainers and Customers
126.09 Suspension	126.22 Notices
126.10 Revocation	126.23 Injunction
126.11 Transfer of Permit	126.24 Exemptions
126.12 Location Restrictions	126.25 Penalty Provision
126.13 Nonconforming Uses	

126.01 PURPOSE AND INTENT. It is the purpose of this chapter to regulate sexually oriented businesses and related activities to promote the health, safety, morals, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of sexually oriented businesses within the City. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent or effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene materials.

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

1. “Adult arcade” means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.
2. “Adult bookstore” or “adult video store” means a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:
 - A. Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
 - B. Instruments, devices, or paraphernalia that are designed for use in connection with specified sexual activities.

A commercial establishment may have other principal business purposes that do not involve the offering for sale or rental of material depicting or describing specified

sexual activities or specified anatomical areas and still be categorized as an adult bookstore or adult video store. Such other business purposes will not serve to exempt such commercial establishments from being categorized as an adult bookstore or adult video store so long as one of its principal business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. A principal business purpose need not be a primary use of an establishment, so long as it is a significant use based upon the visible inventory or commercial activity of the establishment.

3. "Adult cabaret" means a commercial establishment that regularly features:
 - A. Persons who appear in a state of semi-nudity; or
 - B. Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
 - C. Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
 - D. Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.
4. "Adult motel" means a hotel, motel or similar commercial establishment that:
 - A. Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way that advertises the availability of these adult types of photographic reproductions; or
 - B. Offers a sleeping room for rent on an hourly basis; or
 - C. Allows a tenant or occupant of a sleeping room to sub-rent the room on an hourly basis.
5. "Adult motion picture theater" means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.
6. "Adult theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.
7. "Director" means the City official designated by order of resolution of the City Council.
8. "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

9. “Escort agency” means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.
10. “Establishment” means and includes any of the following:
 - A. The opening or commencement of any sexually oriented business as a new business;
 - B. The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business;
 - C. The addition of any sexually oriented business to any other existing sexually oriented business; or
 - D. The relocation of any sexually oriented business.
11. “Licensed day-care center” means a facility licensed by the State, whether situated within the City or not, which provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, of less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.
12. “Permittee” means a person in whose name a permit to operate a sexually oriented business has been issued, as well as the individual listed as an applicant on the application for a permit.
13. “Nude model studio” means any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculpted, photographed or similarly depicted by other persons who pay money or any form of consideration.
14. “Nudity” or “state of nudity” means the appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque, complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
15. “Semi-nude” means a state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque, complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state, even if completely and opaquely covered.
16. “Sexual encounter center” means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:
 - A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
 - B. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or is semi-nude.
17. “Sexually oriented business” means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.
18. “Specified anatomical areas” means the male genitals in a state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

19. "Specified sexual activities" means and includes any of the following:
 - A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breasts;
 - B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;
 - C. Masturbation, actual or simulated; or
 - D. Excretory functions as part of or in connection with any of the activities set forth in subsections A through C above.
20. "Substantial enlargement" of a sexually oriented business means the increase in floor areas occupied by the business by more than twenty-five (25%) from the original premises.
21. "Transfer of ownership or control" of a sexually oriented business means and includes any of the following:
 - A. The sale, lease or sublease of the business;
 - B. The transfer of securities that form a controlling interest in the business, whether by sale, exchange or similar means; or
 - C. The establishment of a trust, gift or other similar legal device that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

126.03 CLASSIFICATION AND STANDARDS OF CONDUCT AND OPERATION.

1. Sexually oriented businesses are classified as follows:
 - A. Adult arcades;
 - B. Adult bookstores or adult video stores;
 - C. Adult cabarets;
 - D. Adult motels;
 - E. Adult motion picture theaters;
 - F. Adult theaters;
 - G. Escort agencies;
 - H. Nude model studios; and
 - I. Sexual encounter centers.
2. The following standards of conduct must be adhered to by entertainers and employees of any sexually oriented business while on the premises:
 - A. No employee or entertainer shall be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any specified anatomical area. No payment or gratuity is allowed to any entertainer for any unlawful act as described by this chapter.
 - B. No employee or entertainer shall perform:
 - (1) Any specified sexual activities; or

- (2) The displaying of any specified anatomical area.
- C. No employee or entertainer shall be unclothed or in less than opaque and complete attire, costume or clothing as described in paragraph A of this subsection.
- D. No employee or entertainer shall knowingly touch any specified anatomical area of another person, or knowingly permit another person to touch any specified anatomical area of such employee or entertainer; or no employee or entertainer shall knowingly fondle or caress any specified anatomical area of another person, whether such area is clothed, unclothed, covered or exposed, or knowingly permit another person to fondle or caress any specified anatomical area of such employee or entertainer, whether such area is clothed, unclothed, covered or exposed.
- E. No entertainer shall be visible from any public place during the hours of his or her employment, or apparent hours of his or her employment, while such entertainer is in such attire, costume or clothing to expose to view any specified anatomical area or while performing any entertainment.
- F. No entertainer shall solicit, demand or receive any payment or gratuity from any customer for any act prohibited by this chapter.
- G. No entertainer shall receive any payment or gratuity from any customer for any act prohibited by this chapter.
3. At any sexually oriented business, the following are required:
- A. A sign, on which upper-case letters are at least two (2) inches high and lower-case letters are at least one (1) inch high, shall be conspicuously displayed in the common area at the principal entrance and shall read as follows:

*THIS ADULT ENTERTAINMENT BUSINESS
IS REGULATED BY THE CITY OF SWISHER, IOWA.
ENTERTAINERS ARE:*

1. *Not permitted to engage in any type of sexual conduct on the premises or in prostitution;*
 2. *Not permitted to be unclothed or in such less than opaque and complete attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks and/or genitals.*
 3. *Not permitted to receive any payment or gratuity from any customer.*
- B. Neither entertainment nor any photograph, drawing, sketch or other pictorial or graphic representation thereof displaying any specified anatomical area shall be visible from a public place.
- C. The premises shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than one foot-candle as measured at the floor level, and such illumination must be maintained at all times that any customer is present in or on the premises.

126.04 PERMIT REQUIRED.

1. It is unlawful for a person to operate a sexually oriented business without a valid permit issued by the Director.
2. An application for a permit must be made on a form provided by the City. The application must be accompanied by a sketch or a diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
3. The applicant must be qualified according to the provisions of this chapter and the premises must be inspected and found to be in compliance with the law by the Health Department, Fire Department, Building Official, Zoning Official and other City officials as designated by the City.
4. If a person who wishes to operate a sexually oriented business is an individual, the person must sign the application for a permit as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for a permit as applicant. If a corporation is listed as owner of a sexually oriented business or as the entity that wishes to operate such a business, each individual having a ten percent (10%) or greater interest in the corporation must sign the application for a permit as applicant.
5. The fact that a person possesses other types of State or City permits and/or licenses does not exempt said person from the requirement of obtaining a sexually oriented business permit.
6. Applications for a permit, whether original or renewal, must be made to the Director by the intended operator of the enterprise. Applications must be submitted by hand delivery to the office of the Director during regular working hours. Application forms shall be supplied by the Director. The intended operator shall be required to give the following information on the application form:
 - A. The name, street address (and mailing address if different) and Iowa driver's license number of the intended operator.
 - B. The name and street address (and mailing address if different) of the owner.
 - C. The name under which the establishment is to be operated and a general description of the services to be provided.
 - D. The telephone number of the establishment.
 - E. The address and legal description of the tract of land on which the establishment is to be located.
 - F. If the establishment is in operation, the date on which the owner acquiring the establishment began operations as a sexually oriented business at the location for which the permit is sought.
 - G. If the establishment is not in operation, the expected start-up date (which shall be expressed in number of days from the date of issuance of the permit). If the expected start-up date is to be more than ten (10) days following the date of issuance of the permit, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay

and a statement of the owner's time schedule and plan for accomplishing the same.

H. Statement that the applicant has not been convicted of a felony or released from confinement for conviction of a felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of a misdemeanor or released from confinement for conviction of a misdemeanor, whichever event is later, within two (2) years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, sexual abuse of a child or pornography and related offenses, as defined in the *Code of Iowa*, federal law, or the statutes of any other state, or controlled substance or illegal drugs or narcotics offenses, as defined in the *Code of Iowa*, federal law or the statutes of any other state, or has not been convicted of a municipal ordinance violation or released from confinement for conviction of a municipal ordinance violation, whichever event is later, within two years immediately preceding the application, where such municipal ordinance violation involved indecent exposure, prostitution or the possession or sale of controlled substances or illegal drugs or narcotics.

7. The application shall be accompanied by the following:
 - A. Payment of the application fee in full.
 - B. If the establishment is an Iowa corporation, a certified copy of the articles of incorporation, together with all amendments thereto.
 - C. If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in the State, together with all amendments thereto.
 - D. If the establishment is a partnership formed under the laws of the State, a certified copy of the certificate of partnership, together with all amendments thereto.
 - E. If the establishment is a foreign partnership, a certified copy of the certificate of partnership and the qualification documents, together with all amendments thereto.
 - F. Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed.
 - G. If the persons identified as the fee owners of the tract of land in item F are not also the owners of the establishment, then the lease, purchase contract, purchase option contract, lease option contract or other document evidencing the legally enforceable right of the owners or proposed owners of the establishment to have or obtain the use and possession of the tract or portion thereof that is to be used for the establishment for the purpose of the operation of the establishment.
 - H. Any of items B through G above shall not be required for a renewal application if the applicant states that the documents previously furnished the Director with the original application or previous renewals thereof remain correct and current.
8. The application shall contain a statement under oath that:

- A. The applicant has personal knowledge of the information contained in the application and that the information contained therein and furnished therewith is true and correct; and
 - B. The applicant has read the provisions of this chapter.
9. A separate application and permit shall be required for each sexually oriented business.

126.05 ISSUANCE OF PERMIT.

1. The Director shall approve the issuance of a permit to an applicant within thirty (30) days after receipt of an application unless the Director finds one or more of the following to be true:
 - A. An applicant is under eighteen (18) years of age.
 - B. An applicant or an applicant's spouse is overdue in the payment to the City of taxes, fines, fees, charges or penalties assessed against said applicant or spouse or imposed in relation to a sexually oriented business.
 - C. An applicant has failed to provide information reasonably necessary for issuance of the permit or has falsely answered a question or request for information on the application form.
 - D. An applicant is residing with a person who has been denied a permit by the City to operate a sexually oriented business within the preceding twelve (12) months, or residing with a person whose permit to operate a sexually oriented business has been revoked within the preceding 12 months.
 - E. The premises to be used for the sexually oriented business has not been approved by the Health Department, Fire Department, Building Official and Zoning Official as being in compliance with applicable laws and ordinances.
 - F. The permit fee required by this chapter has not been paid.
 - G. An application of the proposed establishment is in violation of or is not in compliance with any of the provisions of this chapter.
2. The permit, if granted, shall state on its face the name of the person to whom it is granted, the expiration date and the address of the sexually oriented business. The permit shall be posted in a conspicuous place at or near the entrance to the sexually oriented business that it may be easily read at any time.
3. The Health Department, Fire Department, Building Official and Zoning Official shall complete their certification that the premises is in compliance or not in compliance within twenty (20) days of receipt of the application by the Director. The certification shall be promptly presented to the Director.
4. In the event that the Director determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for the denial within forty-five (45) days after the receipt of the application by the Director, provided that the applicant may request, in writing, that such period be extended for an additional period of not more than ten (10) days at any time before the notice is issued in order to make modifications necessary to comply with this chapter.
5. An applicant may appeal the decision of the Director regarding a denial to the Council by filing a written notice of appeal with the Clerk within fifteen (15) days after

the applicant is given notice of the Director's decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. The Director may submit a memorandum in response to the memorandum filed by the applicant on appeal to the Council. After reviewing such memoranda, as well as the Director's written decision, if any, and exhibits submitted to the Director, the Council shall vote either to uphold or overrule the Director's decision. Such vote shall be taken within twenty-one (21) calendar days after the date on which the Clerk receives the notice of appeal. However, all parties shall be required to comply with the Director's decision during the pendency of the appeal.

126.06 FEES. The annual fee for a sexually oriented business permit is one thousand dollars (\$1,000.00). This fee is to be used to pay for the cost of the administration and enforcement of this chapter.

126.07 INSPECTION. An applicant or permittee shall permit representatives of the Police Department or other City or State departments or agencies to inspect the premises of a sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

126.08 EXPIRATION OF PERMIT.

1. Each permit shall expire one year after the date of issuance and may be renewed only by making application as provided herein. Application for renewal should be made at least thirty (30) days before the expiration date and when made less than thirty (30) days before the expiration date, the expiration of the permit will not be affected.
2. When the Director denies renewal of a permit, the applicant shall not be issued a permit for one year from the date of denial. If, subsequent to the denial, the Director finds that the basis for denial of the renewal permit has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days has elapsed since the date the denial became final.

126.09 SUSPENSION. The Director shall suspend a permit for a period not to exceed thirty (30) days if it is determined that the permittee or an employee of a permittee has:

1. Violated or is not in compliance with any section of this chapter;
2. Become impaired or intoxicated through the use of alcoholic beverages or controlled substances while on the sexually oriented business premises;
3. Refused to allow an inspection of the sexually oriented business premises as authorized by this chapter;
- 4.
5. Knowingly permitted illegal gambling by any person on the sexually oriented business premises.

126.10 REVOCATION.

1. The Director shall revoke a permit if a cause of suspension in Section 126.09 occurs and the permit has been suspended within the preceding twelve (12) months.
2. The Director shall also revoke a permit if it is determined that:

- A. A permittee gave false or misleading information in the material submitted during the application process.
 - B. A permittee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises.
 - C. A permittee or an employee has knowingly allowed prostitution on the premises.
 - D. A permittee or an employee knowingly operated the sexually oriented business during a period of time when the permittee's permit was suspended.
 - E. A permittee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the premises.
 - F. A permittee is delinquent in the payment to the City or State for any taxes or fees past due.
 - G. The owner or operator of the establishment knowingly allowed a person under eighteen (18) years of age to enter an establishment.
 - H. There was a change of owner or operator for which a transfer application was not filed in a timely manner.
3. When the Director revokes a permit, the revocation shall continue for one year, and the permittee shall not be issued a sexually oriented business permit for one year from the date revocation became effective. If, subsequent to revocation, the Director finds that the basis for the revocation has been corrected or abated, the applicant may be granted a permit if at least ninety (90) days has elapsed since the date the revocation became effective.

126.11 TRANSFER OF PERMIT. A permittee shall not transfer the permit to another, nor shall a permittee operate a sexually oriented business under the authority of a permit at any place other than the address designated in the application.

126.12 LOCATION RESTRICTIONS. A sexually oriented business shall be permitted in any M-2 zoned commercial district, provided that:

- 1. The sexually oriented business may not be operated within 1,000 feet of:
 - A. A church, synagogue or regular place of religious worship;
 - B. A public or private elementary or secondary school;
 - C. A boundary of any residential district;
 - D. A public park;
 - E. A licensed day-care center; or
 - F. Another sexually oriented business.
- 2. A sexually oriented business may not be operated in the same building, structure or portion thereof, containing another sexually oriented business.
- 3. For the purpose of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used as a part of the premises where a sexually oriented business is conducted, to the nearest property line of the premises of a church, synagogue, regular

place of worship or public or private elementary or secondary school or to the nearest boundary of an affected public park, residential district or residential lot, or licensed day-care center.

4. For purposes of subsection 3 of this section, the distance between any two sexually oriented business uses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

126.13 NONCONFORMING USES.

1. Any business lawfully operating on the effective date of the ordinance codified in this chapter that is in violation of the configuration requirements with regard to structure and location contained in this chapter shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two years, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business that was first established and continually operating at a particular location is the conforming use and the later established business is nonconforming.

2. A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business permit, of a church, synagogue or regular place of religious worship, public or private elementary school or secondary school, licensed day-care center, public park, or residential district within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid permit and does not apply when an application for a permit is submitted after a permit has expired or has been revoked.

126.14 ADDITIONAL REGULATIONS FOR ADULT MOTELS.

1. Evidence that a sleeping room in a hotel, motel or a similar commercial establishment has been rented and vacated two or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this chapter.

2. It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business permit, rents or sub-rents a sleeping room to a person and, within ten (10) hours from the time the room is rented, rents or sub-rents the same sleeping room again.

For purposes of subsection 2 of this section, the term “rent” or “sub-rent” means the act of permitting a room to be occupied for any form of consideration.

126.15 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS. A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction that depicts “specified sexual activities” or “specified anatomical areas”, shall comply with the following requirements:

1. Upon application for a sexually oriented permit, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches. The Director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
2. The application shall be sworn to be true and correct by the applicant.
3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Director.
4. It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
6. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection 5 remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection 1 of this section.
7. No viewing room may be occupied by more than one person at any time.
8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access to an illumination of not less than one foot-candle as measured at the floor level.
9. It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

126.16 EXTERIOR PORTIONS OF SEXUALLY ORIENTED BUSINESSES.

1. It is unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.

2. It is unlawful for the owner or operator of a sexually oriented business to allow the exterior portion of the sexually oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner except to the extent permitted by the provisions of this chapter.
3. It is unlawful for the owner or operator of a sexually oriented business to allow exterior portions of the establishment to be painted any color other than a single achromatic color. This provision shall not apply to a sexually oriented business if the following conditions are met:
 - A. The establishment is a part of a commercial multi-unit center.
 - B. The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of the business, are painted the same color as one another or are painted in such a way so as to be a component of the overall architectural style or pattern of the commercial multi-unit center. Nothing in this chapter shall be construed to require the painting of an otherwise unpainted exterior portion of a sexually oriented business.

126.17 SIGNAGE.

1. Notwithstanding any other City ordinance, code or regulation to the contrary, it is unlawful for the owner or operator of any sexually oriented business or any other person to erect, construct, or maintain any sign for the sexually oriented business other than the one primary sign and one secondary sign, as provided herein.
2. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
 - A. Not contain any flashing lights;
 - B. Be a flat plane, rectangular in shape;
 - C. Not exceed seventy-five (75) square feet in area; and
 - D. Not exceed ten (10) feet in height or ten (10) feet in length.
3. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.
4. Each letter forming a word on a primary sign shall be of solid color and each such letter shall be the same print-type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
5. Secondary signs shall have only one display surface. Such display surface shall:
 - A. Be a flat plane, rectangular in shape;
 - B. Not exceed twenty (20) square feet in area;
 - C. Not exceed five (5) feet in height and four (4) feet in width; and
 - D. Be affixed or attached to any wall or door of the enterprise.
6. The provisions of paragraph A of subsection 2 and of subsections 3 and 4 shall also apply to secondary signs.

126.18 PERSONS YOUNGER THAN EIGHTEEN PROHIBITED.

1. It is unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of a sexually oriented business at any time that the sexually oriented business is open for business.

2. It shall be the duty of the operator of each sexually oriented business to ensure that an attendant is stationed at each public entrance to the sexually oriented business at all times during regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the sexually oriented business. It shall be presumed that an attendant knew a person was under the age of 18 unless such attendant asked for and was furnished:

A. A valid operator's, commercial operator's or chauffeur's driver's license; or

B. A valid personal identification certificate issued by the State reflecting that such person is 18 years of age or older.

126.19 MESSAGES OR BATHS ADMINISTERED BY PERSON OF OPPOSITE SEX.

It is unlawful for any establishment, regardless of whether it is a public or private facility, to operate a massage salon, massage parlor or any similar type of business where any physical contact with the recipient of such services is provided by a person of the opposite sex unless licensed by the State of Iowa.

126.20 CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED. The permittee of a sexually oriented business shall not allow the possession or consumption on premises by any person of any alcoholic beverage, wine or beer. No person shall possess or consume any alcoholic beverage, wine or beer on the premises of any sexually oriented business.

126.21 SEPARATION OF ENTERTAINERS AND CUSTOMERS. In the interests of safety, fire concerns and order, entertainers performing semi-nude or revealing specified anatomical areas in an adult cabaret shall appear on a raised platform at least two (2) feet above the level of the ordinary floor level of the establishment and be at least six (6) feet apart from any customer.

126.22 NOTICES.

1. Any notice required or permitted to be given by the Director or any other City office, division, department or other agency under this chapter to any applicant, operator or owner of an establishment may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the permit, or transfer application that has been received by the Director, or any notice of address change that has been received by the Director. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the Director shall cause it to be posted at the principal entrance to the establishment.

2. Any notice required or permitted to be given to the Director by any person under this chapter shall not be deemed given until and unless it is received in the office of the Director.

3. It is the duty of each owner who is designated on the permit application and each operator to furnish a notice to the Director in writing of any change of residence or mailing address.

126.23 INJUNCTION. A person who operates or causes to be operated a sexually oriented business without a valid permit or otherwise violates this chapter is subject to a suit for injunction as well as prosecution for criminal violations.

126.24 EXEMPTIONS. The provisions of this chapter shall not apply to a theatre, concert hall, art center, museum or similar establishment which is primarily devoted to the arts or theatrical performances.

126.25 PENALTY PROVISION. The City may elect, at its sole discretion, to prosecute any violation of this chapter either as a simple misdemeanor or a municipal infraction.

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices

135.02 Obstructing or Defacing

135.03 Placing Debris On

135.04 Playing In

135.05 Traveling on Barricaded Street or Alley

135.06 Use for Business Purposes

135.07 Washing Vehicles

135.08 Burning Prohibited

135.09 Excavations

135.10 Property Owner's Responsibility for Maintenance

135.11 Failure to Maintain Parking or Terrace

135.12 Protection of Drainage Swales (Ditches) Within the
Right-of-Way and Easements

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. Refer to the provisions of Chapter 169 of this Code of Ordinances for work within City right-of-way and easements.
2. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
3. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the *Code of Iowa*.

135.10 PROPERTY OWNER'S RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain all property outside the lot and property lines and inside the curb lines upon public streets and shall keep such area in a safe condition, free from nuisances, obstructions, and hazards. In the absence of a curb, such property shall extend from the property line to that portion of the public street used or improved for vehicular purposes. 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, but is not limited to, timely mowing, trimming trees and shrubs, and picking up litter and debris. The abutting property owner may be liable for damages caused by failure to maintain the publicly owned property or right-of-way.[†]

(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 PROTECTION OF DRAINAGE SWALES (DITCHES) WITHIN THE RIGHT-OF-WAY AND EASEMENTS. Drainage swales (ditches) function as an integral part of the City's informal drainage system within the right-of-way or dedicated drainage easements. These drainage swales (ditches) are not to be altered, except for maintenance as originally constructed. The primary function of drainage swales (ditches) is to collect runoff from roadways and areas adjacent to the right-of-way or easements and transport this accumulated water to an acceptable outlet point. A secondary function of drainage swales (ditches) is to drain the base of the roadway to prevent saturation and loss of support for the roadway surfacing. All roadways without curb and gutter shall be required to have drainage swales (ditches) along both sides. To preserve the integrity and operation of the drainage swales (ditches), any proposed modifications must be approved by the City of Swisher. Driveways may be constructed over these drainage swales per the City Codes of Ordinances, and the City design standards. *(Ord. 271 – Dec. 18 Supp.)*

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[†] **EDITOR'S NOTE:** See also Section 136.04 relating to property owner's responsibility for maintenance of sidewalks.

CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose	136.11 Interference with Sidewalk Improvements
136.02 Definitions	136.12 Awnings
136.03 Removal of Snow, Ice and Accumulations	136.13 Encroaching Steps
136.04 Responsibility for Maintenance	136.14 Openings and Enclosures
136.05 City May Order Repairs	136.15 Fires or Fuel on Sidewalks
136.06 Sidewalk Construction Ordered	136.16 Defacing
136.07 Permit Required	136.17 Debris on Sidewalks
136.08 Sidewalk Standards	136.18 Merchandise Display
136.09 Barricades and Warning Lights	136.19 Sales Stands
136.10 Failure to Repair or Barricade	

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. The abutting property owner shall remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax. The abutting property owner may be liable for damages caused by failure to remove snow, ice, and accumulations promptly from the sidewalk.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. The abutting property owner shall maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or, in the absence of a curb, any sidewalk between the property line and that portion of the public street used or improved for vehicular purposes. The abutting property owner may be liable for damages caused by failure to maintain the sidewalk.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be

done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work. Refer to the provisions of Chapter 169 of this Code of Ordinances for work within City right-of-way and easements.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be constructed in accordance with the City Design Standards.

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.15 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

136.18 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

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CHAPTER 137

VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate
137.02 Planning and Zoning Commission
137.03 Notice of Vacation Hearing

137.04 Findings Required
137.05 Disposal of Vacated Streets or Alleys
137.06 Disposal by Gift Limited

137.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, *Code of Iowa*.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

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CHAPTER 139

NAMING OF STREETS

139.01 Naming New Streets
139.02 Changing Name of Street
139.03 Recording Street Names

139.04 Official Street Name Map
139.05 Revision of Street Name Map

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

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

139.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Swisher, Iowa."

139.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 145

DANGEROUS BUILDINGS

145.01 Enforcement Officer
145.02 General Definition of Unsafe
145.03 Unsafe Building
145.04 Notice to Owner

145.05 Conduct of Hearing
145.06 Posting of Signs
145.07 Right to Demolish; Municipal Infraction
145.08 Costs

145.01 ENFORCEMENT OFFICER. The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.
(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING. “Unsafe building” means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration, or decay; (ii) faulty construction; (iii) the removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such building; (iv) the deterioration, decay, or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

145.04 NOTICE TO OWNER. The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged

and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the *Code of Iowa*, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date the owner receives such notice.
2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING. If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.
2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.[†]

145.06 POSTING OF SIGNS. The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF SWISHER, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

145.07 RIGHT TO DEMOLISH; MUNICIPAL INFRACTION. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost

[†] **EDITOR'S NOTE:** Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

of such work shall be transmitted to the Council. As an alternative to this action, the City may utilize the municipal infraction process to abate the nuisance.

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

145.08 COSTS. Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes. In addition, the City may take any other action deemed appropriate to recover costs incurred.

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

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Plan

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

1. “Owner” means the owner of the principal building.
2. “Principal building” means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING PLAN. Building numbers shall be assigned in accordance with the building numbering plan on file in the office of the Clerk.

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CHAPTER 151

TREES

151.01 Definition

151.02 Planting Restrictions

151.03 Permit Required

151.04 Duty to Trim Trees

151.05 Trimming Trees In Street or Public Places

151.06 Disease Control

151.07 Inspection and Removal

151.01 DEFINITION. For use in this chapter, “parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruit-bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

151.03 PERMIT REQUIRED. No trees shall be planted in any parking or street without first obtaining a permit therefor. Refer to the provisions of Chapter 169 of this Code of Ordinances for work within City right-of-way and easements.

151.04 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner or agent fails to trim the trees, the City may serve written notice by certified mail on the abutting property owner or agent requiring that such action be taken within fourteen (14) days from the date of the written notice. If such action is not taken within that time, the City may perform the required action to trim to the trees and assess the costs against the abutting property for collection in the same manner as a property tax. *(Ord. 274 – Sep. 20 Supp.)*

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

151.05 TRIMMING TREES IN STREET OR PUBLIC PLACES. It shall be unlawful for any person to trim or cut any tree in a street or public place unless the work is done after first receiving consent from the City. *(Ord. 274 – Sep. 20 Supp.)*

151.06 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.07 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 155

BUILDING CODES

155.01 Construction Codes

155.02 Permit Required

155.01 CONSTRUCTION CODES. Pursuant to a 28E Agreement by and between the City of Swisher and Johnson County, Iowa, Chapter 8:6 – Building Code of the Code of Ordinances of Johnson County Unified Development Ordinances as it may be amended from time to time, is applicable to all construction within the City of Swisher and shall be administered by the Johnson County Planning Development and Sustainability Department, except for the legal enforcement of violations thereof.

155.02 PERMIT REQUIRED. No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure in the City of Swisher or cause the same to be done without first obtaining a separate building permit for each such building or structure from both the City of Swisher and Johnson County Planning Development and Sustainability Department and unless such work is completed in accordance with this Construction Code. Any non-commercial buildings or structures 200 square feet or less shall require a building permit from the City of Swisher only.

(Chapter 155 – Ord. 283 – Jul. 22 Supp.)

[The next page is 725]

CHAPTER 156
MECHANICAL CODE

(Chapter 156 repealed by Ord. 254 – Nov. 15 Supp.)

[The next page is 731]

CHAPTER 157
PLUMBING CODE

(Chapter 157 repealed by Ord. 254 – Nov. 15 Supp.)

[The next page is 745]

CHAPTER 158
FUEL GAS CODE

(Chapter 158 repealed by Ord. 254 – Nov. 15 Supp.)

[The next page is 751]

CHAPTER 159
ELECTRICAL CODE

(Chapter 159 repealed by Ord. 254 – Nov. 15 Supp.)

[The next page is 755]

CHAPTER 160

FLOODPLAIN MANAGEMENT

160.01 Definitions	160.06 Variance Procedures
160.02 Statutory Authority, Findings of Fact, and Purpose	160.07 Nonconforming Uses
160.03 General Provisions	160.08 Penalties for Violation
160.04 Administration	160.09 Amendments
160.05 Floodplain Management Standards	

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

1. “Appurtenant structure” – A structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.
2. “Base flood” – The flood having one (1) percent chance of being equaled or exceeded in any given year (also commonly referred to as the “100-year flood”).
3. “Base flood elevation” (BFE) – The elevation floodwaters would reach at a particular site during the occurrence of a base flood event.
4. “Basement” – Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see “lowest floor.”
5. “Development” – Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. Development does not include minor projects or routine maintenance of existing buildings and facilities as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.
6. “Enclosed area below lowest floor” – The floor of the lowest enclosed area in a building when all the following criteria are met:
 - A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Section 160.05(1)(D)(1) of this ordinance, and
 - B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
 - C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and
 - D. The enclosed area is not a basement as defined in this section.
7. “Existing construction” – Any structure for which the start of construction commenced before the effective date of the first floodplain management regulations adopted by the community.

8. “Existing factory-built home park or subdivision” – 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 the first floodplain management regulations adopted by the community.
9. “Expansion of existing factory-built home park or subdivision” – 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).
10. “Factory-built home” – Any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also includes recreational vehicles which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.
11. “Factory-built home park or subdivision” – A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
12. “Five hundred (500) year flood” – A flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.
13. “Flood” – 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.
14. “Flood Insurance Rate Map” (FIRM) – The official map prepared as part of (but published separately from) the Flood Insurance Study and which delineates both the flood hazard areas and the risk premium zones applicable to the community.
15. “Flood Insurance Study” (FIS) – A report published by FEMA for a community issued along with the community’s Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.
16. “Floodplain” – Any land area susceptible to being inundated by water as a result of a flood.
17. “Floodplain management” – An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.
18. “Floodproofing” – 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.
19. “Floodway” – The channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

20. “Floodway fringe” – Those portions of the Special Flood Hazard Area outside the floodway.
21. “Highest adjacent grade” – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
22. “Historic structure” – 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 (i) an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.
23. “Lowest floor” – The floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of enclosed area below lowest floor are met.
24. “Maximum damage potential development” – Hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.
25. “Minor projects” – Small development activities (except for filling, grading and excavating) valued at less than \$500.
26. “New construction” (new buildings, factory-built home parks) – Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.
27. “New factory-built home park or subdivision” – 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 the first floodplain management regulations adopted by the community.

28. “Recreational vehicle” – A vehicle which is:
- A. Built on a single chassis;
 - B. Four hundred (400) square feet or less when measured at the largest horizontal projection;
 - C. Designed to be self-propelled or permanently towable by a light duty truck; and
 - D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.
29. “Routine maintenance of existing buildings and facilities” – Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:
- A. Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
 - B. Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
 - C. Basement sealing;
 - D. Repairing or replacing damaged or broken window panes;
 - E. Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.
30. “Special Flood Hazard Area” (SFHA) – The land within a community subject to the base flood. This land is identified on the community’s Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.
24. “Start of construction” – Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.
25. “Structure” – Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, grain storage facilities and/or other similar uses.
26. “Substantial damage” – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed

fifty (50) percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

27. “Substantial improvement” – Any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (i) before the start of construction of the improvement, or (ii) if the structure has been substantially damaged and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of State or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an historic structure, provided the alteration will not preclude the structure’s designation as an historic structure.

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

28. “Variance” – A grant of relief by a community from the terms of the floodplain management regulations.

29. “Violation” – The failure of a structure or other development to be fully compliant with the community’s floodplain management regulations.

160.02 STATUTORY AUTHORITY, FINDINGS OF FACT, AND PURPOSE.

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

2. Findings of Fact.

A. The flood hazard areas of the City of Swisher, IA are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

C. This ordinance relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources.

3. Statement of Purpose. It is the purpose of this ordinance to protect and preserve the rights, privileges and property of the City of Swisher and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section 160.02(2)(A) of this ordinance with provisions designed to:
 - A. Reserve sufficient floodplain area 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 facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
 - D. Protect individuals from buying lands which may not be suited 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.

160.03 GENERAL PROVISIONS.

1. Lands to Which Ordinance Apply. The provisions of this ordinance shall apply to all lands and development which have significant flood hazards. The Flood Insurance Rate Map (FIRM) for Johnson County and Incorporated Areas, City of Swisher, Panels 19103C0027E, 0029E, 0031E, 0033E, dated February 16, 2007, which were prepared as part of the Johnson County Flood Insurance Study, shall be used to identify such flood hazard areas and all areas shown thereon to be within the boundaries of the base flood shall be considered as having significant flood hazards. The Flood Insurance Study for the County of Johnson, IA is hereby adopted by reference and is made a part of this ordinance for the purpose of administering floodplain management regulations.
2. Rules for Interpretation of Flood Hazard Boundaries. The boundaries of the Special Flood Hazard areas shall be determined by scaling distances on the official Flood Insurance Rate Map. Where uncertainty exists with respect to the precise location of the base flood boundary, the location shall be determined on the basis of the base flood elevation at the particular site in question. When an interpretation is needed as to the exact location of a boundary, the Mayor, or his/her designated Certified Floodplain Manager (CFM) shall make the necessary interpretation. The City Council shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Mayor or his/her designated CFM in the enforcement or administration of this ordinance.
3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.
4. Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this

ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

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

6. Warning and Disclaimer of Liability. The standards required by this ordinance are considered reasonable for regulatory purposes. This ordinance does not imply that areas outside the designated areas of significant flood hazard will be free from flooding or flood damages. This ordinance shall not create liability on the part of the City of Swisher or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

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

160.04 ADMINISTRATION.

1. Appointment, Duties, and Responsibilities of Local Official.

A. The Mayor or his/her designated Certified Floodplain Manager (CFM) is hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all Floodplain Development Permit Applications to assure that the provisions of this ordinance will be satisfied.

(2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, State and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this ordinance.

(6) Submit to the Federal Insurance Administration an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

- (7) Notify the Federal Insurance Administrator of any annexations or modifications to the community's boundaries.
- (8) Review subdivision proposals to ensure such proposals are consistent with the purpose of this ordinance and advise the City Council of potential conflict.
- (9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;
 - a. Development placed within the floodway results in any of the following:
 - (i) An increase in the base flood elevations, or
 - (ii) Alteration to the floodway boundary.
 - b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or
 - c. Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

- (10) Perform site inspections to ensure compliance with the standards of this ordinance.
- (11) Forward all requests for variances to the City Council for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the City Council.

2. Floodplain Development Permit.

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

B. **Application for Permit.** Application shall be made on forms furnished by the Administrator and shall include the following:

- (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, track, street address or similar description) that will readily identify and locate the work to be done.
- (3) Location and dimensions of all structures and additions.
- (4) Indication of the use or occupancy for which the proposed work is intended.
- (5) Elevation of the base flood.

(6) Elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of structure or of the level to which a structure is to be floodproofed.

(7) For structures being improved or rebuilt, the estimated cost of improvements and market value of the structure prior to the improvements.

(8) Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this ordinance.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the City Council.

D. Construction and Use to Be as Provided in Application and Plans. Floodplain Development Permits based 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 a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, structure floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this ordinance, prior to the use or occupancy of any structure.

160.05 FLOODPLAIN MANAGEMENT STANDARDS.

1. General Floodplain Standards. All development must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations have not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to determine (i) whether the land involved is either wholly or partly within the floodway or floodway fringe and (ii) the base flood elevation. Until a regulatory floodway is designated, no development may increase the base flood elevation more than one (1) foot. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

Review by the Iowa Department of Natural Resources is not required for the proposed construction of new or replacement bridges or culverts where (i) the bridge or culvert is located on a stream that drains less than two (2) square miles, and (ii) the bridge or culvert is not associated with a channel modification that constitutes a channel change as specified in 567-71.2(2), *Iowa Administrative Code*.

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

(1) Be designed and adequately anchored to prevent flotation, collapse or lateral movement.

(2) Use construction methods and practices that will minimize flood damage.

(3) Use construction materials and utility equipment that are resistant to flood damage.

B. Residential Structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the base flood elevation and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), *Iowa Administrative Code*.

C. Non-Residential Structures. All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, 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 base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. FEMA's standard form #086-0-34 ("Floodproofing Certificate for Non-Residential Structures", latest version) shall be used for the certification. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator.

D. All New and Substantially Improved Structures.

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

- a. A minimum of two (2) openings, with positioning on at least two (2) walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- b. The bottom of all openings shall be no higher than one foot above grade.

- c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

Such areas shall be used solely for parking of vehicles, building access and low damage potential storage. Where the distance between the floor and ceiling of the fully enclosed area below the lowest floor is (five (5)) feet or more, the applicant shall be required to sign and record with the Johnson County Recorder a Non-Conversion Agreement that ensures the lower enclosed area remains compliant with the criteria outlined in Section 160.05(1)(D)(1).

- (2) 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.

- (3) New and substantially improved structures shall be constructed with electric meter, electrical service panel box, hot water heater, heating, air conditioning, ventilation equipment (including ductwork), and other similar machinery and equipment elevated (or in the case on non-residential structures, optionally floodproofed to) a minimum of one (1) foot above the base flood elevation.

- (4) New and substantially improved structures shall be constructed with plumbing, gas lines, water/gas meters and other similar service utilities either elevated (or in the case of non-residential structures, optionally floodproofed to) a minimum of one (1) foot above the base flood elevation or designed to be watertight and withstand inundation to such a level.

E. Factory-Built Homes.

- (1) All new and substantially improved 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 base flood elevation.

- (2) All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the *State Building Code*.

F. Utility and Sanitary Systems.

- (1) On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

- (2) All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters.

Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the base flood elevation.

(3) New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the base flood elevation.

(4) Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

G. Storage of Equipment and Materials. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the base flood elevation. 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.

H. Flood Control Structures. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

I. Watercourse Alterations. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

J. Subdivisions. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include base flood elevation data for those areas located within the Special Flood Hazard Area.

K. Accessory Structures to Residential Uses.

(1) Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied:

a. The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the base flood elevation must be constructed of flood-resistant materials.

b. The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

d. The structure shall be firmly anchored to resist flotation, collapse and lateral movement.

e. The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

f. The structure's walls shall include openings that satisfy the provisions of Section 160.05(1)(D)(1) of this ordinance.

(2) Exemption from the base flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles.

(1) Recreational vehicles are exempt from the requirements of Section 160.05(1)(E) of this ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied:

a. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

b. 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 not permanently attached addition.

(2) Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section 160.05(1)(E) of this ordinance regarding anchoring and elevation of factory-built homes.

M. Pipeline Crossings. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

N. Maximum Damage Potential Development. All new or substantially improved maximum damage potential development shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, 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 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood

elevation is watertight with walls substantially impermeable to the passage of water. FEMA's Standard Form #086-0-34 ("Floodproofing Certificate for Non-Residential Structures", latest version) shall be used for the certification. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

2. Special Floodway Provisions. In addition to the General Floodplain Standards, development within the floodway must meet the following applicable standards. The floodway is that portion of the floodplain which must be protected from developmental encroachment to allow the free flow of flood waters. Where floodway data has been provided in the Flood Insurance Study, such data shall be used to define the floodway. Where no floodway data has been provided, the Department of Natural Resources shall be contacted to provide a floodway delineation. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

A. No development shall be permitted in the floodway that would result in any increase in the base flood elevation. 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 development within the floodway 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 development shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch or any other drainage facility or system.

D. Structures, buildings, recreational vehicles, and sanitary and utility systems, if permitted, shall meet the applicable general floodplain standards and shall be constructed or aligned to present the minimum possible resistance to flood flows.

E. Structures, if permitted, shall have a low flood damage potential and shall not be for human habitation.

F. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the floodway within the time available after flood warning.

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 Department of Natural Resources.

H. Any fill allowed in the floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.

I. Pipeline river or stream crossings shall be buried in the streambed and banks or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

160.06 VARIANCE PROCEDURES.

1. The City Council may authorize upon request in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood would result. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

C. Variances 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 structures than what is ordinarily required by this ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

E. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

2. Factors Upon Which the Decision of the City Council Shall Be Based. In passing upon applications for variances, the Council shall consider all relevant factors specified in other sections of this ordinance and:

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 on to other land 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 City.
 - F. The requirements of the facility for a floodplain 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 floodplain management program for the area.
 - J. The safety of access to the property in times 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. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.
 - M. Such other factors which are relevant to the purpose of this ordinance.
3. Conditions Attached to Variances. Upon consideration of the factors listed above, the City Council may attach such conditions to the granting of variances as it deems necessary to further the purpose of this ordinance. Such conditions may include, but not necessarily be limited to:
- A. Modification of waste disposal and water supply facilities.
 - B. Limitation of periods of use and operation.
 - C. Imposition of operational controls, sureties, and deed restrictions.
 - D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this ordinance.
 - E. Floodproofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, duration, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The Council shall require that the applicant submit a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

160.07 NONCONFORMING USES.

- 1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:
 - A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this ordinance.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

C. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing State or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

2. Except as provided in Section 160.07(1)(B), any use which has been permitted as a variance shall be considered a conforming use.

160.08 PENALTIES FOR VIOLATION. Violations of the provisions of this ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$(500.00 (five hundred dollars) or imprisoned for not more than (30 (thirty) days. Nothing herein contained prevent the City of Swisher from taking such other lawful action as is necessary to prevent or remedy violation.

160.09 AMENDMENTS. The regulations and standards set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval from the Department of Natural Resources.

(Chapter 160 – Ord. 302 – Dec. 23 Supp.)

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CHAPTER 165

ZONING REGULATIONS

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165.01 SHORT TITLE AND PURPOSE. This chapter shall be known and may be cited as the “City of Swisher, Iowa, Zoning Ordinance.” The purpose of this chapter is to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to regulate the use of land, and to promote the health, safety, and general welfare in the City of Swisher, Iowa.

165.02 DEFINITIONS. For purposes of this chapter, the words “used and occupied” include the words “intended, designed or arranged to be used or occupied”; the word “lot” includes the words “plot or parcel”; and the following terms or words used herein shall be interpreted as follows:

1. “Abutting” means having property or district lines in common.
2. “Access” means a way of approaching or entering a property from a public street.
3. “Accessory building” means a subordinate building located on the same lot with the main building, occupied by or devoted to, an accessory use. Where an accessory building is attached to the main building in a substantial manner, as by a wall or roof, such accessory building shall be considered part of the main building.
4. “Accessory use” means a use customarily incidental and subordinate to the main use or building and located on the same lot therewith. In no case shall such accessory use dominate, in area, extent or purpose, the principal lawful use or building.
5. “Agriculture” means the production, keeping or maintenance, for sale, lease, or personal use, of plants and animals useful to humans, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, mules, or goats, or any mutations or hybrids thereof including the breeding and grazing of any or all such animals; bees and apiary products; fur animals; trees and forest products; fruits

of all kinds; vegetables; or land devoted to a soil conservation or forestry management program.

6. “Alley” means a public way, other than a street, twenty (20) feet or less in width, affording secondary means of access to abutting property.

7. “Basement” means a story having part but not more than one-half (1/2) its height above grade. A basement shall be counted as a story if the vertical distance from the average adjoining grade to its ceiling is over five (5) feet.

8. “Bed and breakfast house” means a house or portion thereof where short-term lodging, rooms, and meals are provided. The operator shall live on the premises.

9. “Board” means the Board of Adjustment.

10. “Boarding house” means a building other than a hotel where, for compensation, meals and lodging are provided for four (4) or more persons.

11. “Building” means any structure designed or intended for the support, enclosure, shelter, or protection of persons, animals, or property, but not including signs or billboards and not including structures or vehicles originally designed for transportation purposes.

12. “Building, height” means the vertical distance from grade plan to the average height of the highest roof surface.
(Ord. 264 – Jun. 17 Supp.)

13. “District” means a section of the City within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.

14. “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.

15. “Dwelling, multiple” means a building or portion thereof designed for or occupied exclusively for residence purposes by two or more families.

16. “Dwelling, single-family” means a building designed for or occupied exclusively for residence purposes by one family.

17. “Family” means one or more persons related by blood, marriage or adoption occupying a single dwelling unit. A family may include two, but not more than two, persons not related by blood, marriage or adoption; and further provided, domestic employees employed on the premises may be housed on the premises without being counted as a family or families.

18. “Family home” means a community-based residential home which is licensed as a residential care facility under Chapter 135C or as a child foster care facility under Chapter 237 to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight (8) developmentally disabled persons and any necessary support personnel. However, family home does not mean an individual foster care family home licensed under Chapter 237.

19. “Frost-free foundation” means a foundation supporting a structure which is required to be at least forty-two (42) inches below grade.

20. “Garage” means a building or portion thereof in which a motor vehicle containing gasoline, distillate or other volatile, flammable liquid in its tank is stored, repaired, or kept.
21. “Garage, private” means a building or part thereof accessory to a main building and providing for the storage of automobiles and in which no occupation or business for profit is carried on.
22. “Garage, public or storage” means a building or part thereof other than a private garage for the storage of motor vehicles and in which service station activities may be carried on.
23. “Grade” means the average elevation of the finished ground at the exterior walls of the main building.
24. “Health care facility” means any residential care facility, intermediate care facility, or skilled nursing facility.
- A. Residential Care Facility - Any institution, place, building, or agency providing for a period exceeding twenty-four (24) consecutive hours’ accommodation, board, personal assistance and other essential daily living activities to three (3) or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity are unable to sufficiently or properly care for themselves but who do not require the services of a registered or licensed practical nurse except on an emergency basis.
- B. Intermediate Care Facility - Any institution, place, building or agency providing for a period exceeding twenty-four (24) consecutive hours’ accommodation, board, and nursing services, the need for which is certified by a physician, to three (3) or more individuals, not related to the administrator or owner thereof within the third degree of consanguinity, who by reason of illness, disease, or physical or mental infirmity require nursing services which can be provided only under the direction of a registered nurse or a licensed practical nurse.
- C. Skilled Nursing Facility - Any institution, place, building, or agency providing for a period exceeding twenty-four (24) consecutive hours’ accommodation, board, and nursing services, the need for which is certified by a physician, to three (3) or more individuals not related to the administrator or owner thereof within the third degree of consanguinity who by reason of illness, disease, or physical or mental infirmity require continuous nursing care services and related medical services, but do not require hospital care. The nursing care services provided must be under the direction of a registered nurse on a 24-hour-per-day basis.
25. “Home occupation” means an occupation conducted in a dwelling unit, provided that:
- A. No more than one person other than members of the family residing on the premises shall be engaged in such occupation, except by special exception by the Board of Adjustment.
- B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants,

and not more than twenty-five percent (25%) of the gross floor area in the dwelling unit shall be used in the conduct of the home occupation.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding two (2) square feet in area, non-illuminated, and mounted flat against the wall of the principal building.

D. No home occupation may be conducted in any accessory building, except by special exception of the Board of Adjustment.

E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met by providing off-street parking and shall not be in a required front yard.

F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

26. "Hospital" means an institution which is devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment or care over a period exceeding twenty-four (24) hours of two (2) or more non-related individuals suffering from illness, injury, or deformity, or a place which is devoted primarily to the rendering over a period exceeding twenty-four (24) hours of obstetrical or other medical or nursing care for two (2) or more non-related individuals, or any institution, place, building or agency in which any accommodation is primarily maintained, furnished or offered for the care over a period exceeding twenty-four (24) hours of two (2) or more non-related aged or infirm persons requiring or receiving chronic or convalescent care; and shall include sanitariums or other related institutions. Provided, however, this shall not apply to hotels or other similar places that furnish only food and lodging, or either, to their guests. "Hospital" shall include, in any event, any facilities wholly or partially constructed or to be constructed with federal financial assistance, pursuant to Public Law 725, 79th Congress, approved August 13, 1946.

27. "Hotel" means a building occupied as the more or less temporary residence of individuals who are lodged for compensation with or without meals, in which there are sleeping rooms or suites of rooms with no provision made for cooking in any individual room or suite of rooms, and entrance is through a common lobby or office.

28. "Junk yard" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled or handled, including places or yards for storage of salvaged house wrecking and 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 as part of manufacturing operations.

29. "Lodging house" means a building originally designed for or used as single-family, two-family, or multiple-family dwelling, all or a portion of which contains lodging rooms or rooming units which accommodate persons who are not members of the keeper's family. Lodging or meals, or both, are provided for compensation. The

term “lodging house” shall be construed to include: boarding house, rooming house, fraternity house, sorority house and dormitories.

30. “Lot” means, for purposes of this chapter, 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 spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, 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, or complete lots of record and portions of lots of record, or of portions of lots of record;
- 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 chapter.

31. “Lot frontage” means the portion nearest the street. For the purposes of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under the definition of “yard” in this section.

32. “Lot measurements” -

A. Width of a lot shall be the distance between straight lines connecting front and rear lot lines at each side of the lot, measured across the building line; provided, however, width between side lot lines at their foremost points (where they intersect with the street line or front property line) shall not be less than eighty percent (80%) of the required lot width except in the case of lots on the turning circle of a cul-de-sac where 80% requirement shall not apply.

B. Depth of a lot shall be the distance between the mid-points of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

33. “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.

34. “Lot types” – Chart 1 illustrates terminology used in this chapter with reference to “corner lots,” “interior lots,” “through lots” and “reversed corner lots” as follows:

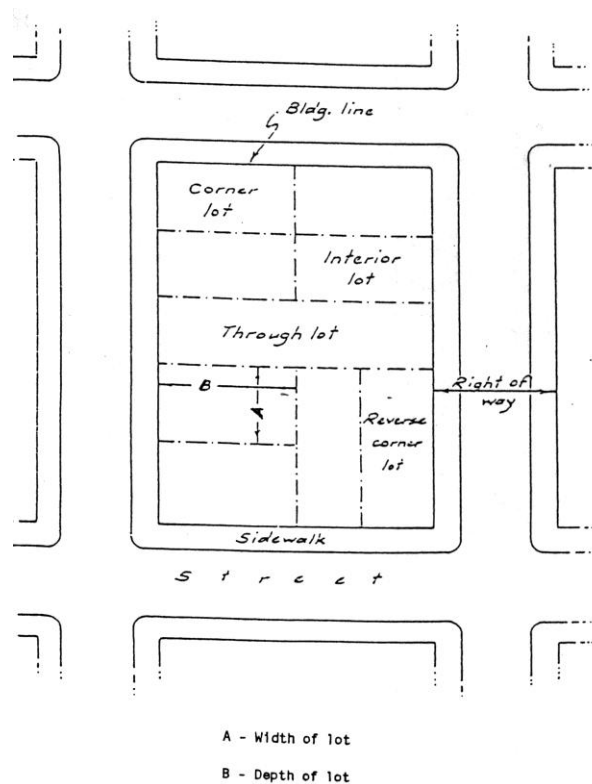
“Corner lot” is a lot located at the intersection of two or more streets.

“Interior lot” is a lot other than a corner lot with only one frontage on a street other than an alley.

“Through lot” is a lot other than a corner lot with frontage on more than one street other than an alley. Lots with frontage on two non-intersecting streets may be referred to as “through lots.”

“Reversed corner lot” is a corner lot, the side street line of which is substantially a continuation of the front lot line of the first lot to its rear.

Chart 1 - Lots



35. “Manufactured home” means a factory-built structure, which is manufactured or constructed under the authority of 42 U.S.C. Section 5403 and is 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 moved other than for the purpose of moving to a permanent site and which does not have permanently attached to its body or frame any wheels or axles. A manufactured home shall be located and installed according to the same standards, including but not limited to, a foundation system, setback, and minimum square footage which would apply to a site-built, single-family dwelling on the same lot. A mobile home as defined in Section 435.1 of the *Code of Iowa* is not a manufactured home, unless it has been converted to real property as provided in Section 435.26 of the *Code of Iowa*, and shall be taxed as a site-built dwelling. This section shall not be construed as abrogating a recorded restrictive covenant. Further, in order for a manufactured home to be allowed as a permitted use in districts other than a Mobile Home District, it shall be a minimum of 20 feet in width and be placed on a permanent frost-free foundation.

36. “Mobile home” means any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirtings, and which is, has been, or reasonably may be, equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term “mobile home” includes camp car and house car.

37. “Modular home” means factory-built housing certified as meeting the State Building Code as applicable to modular housing. Once certified by the State, modular homes shall be subject to the same standards as site-built homes.

38. “Motel” (also motor hotel, motor court, motor lodge, or tourist court) means a building or group of buildings designed to provide sleeping accommodations to

transient guests for compensation, and provides near each guest room a parking space for the guest's vehicle. A swimming pool, restaurant, meeting rooms, management offices and other such accessory facilities may be included.

39. "Nonconformities" means lots, structures, uses of land and structures, or characteristics of uses, which are prohibited under the terms of the Zoning Ordinance but were lawful at the date of enactment of the ordinance.

40. "Nursing or convalescent home" means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled persons, not including insane and other mental cases, inebriate, or contagious cases.

41. "Parking space" means an area of not less than one hundred eighty (180) square feet either within a structure or in the open, exclusive of driveway or access drives, for the parking of a motor vehicle.

42. "Permitted use" means a use by right which is specifically authorized in a particular zoning district.

43. "Principal use" means the main use of land or structures as distinguished from an accessory use.

44. "Projections" (into yards) means parts of buildings such as architectural features that extend beyond the building's exterior wall.

45. "Service station" (gas station) means a building or premises used for dispensing or offering for sale at retail any automobile fuels, oils, or having pumps and storage tanks therefor, or where battery, tire or any similar services are rendered, and where vehicles are not parked for purposes of inspection or sale.

46. "Setback" means the required distance between every structure and lot line on the lot in which it is located.

47. "Sign" means any advertising device or surface out-of-doors, on or off premises, on which letters, illustrations, designs, figures or symbols are printed or attached and which conveys information or identification.

48. "Sign, on-premises" means an advertising device concerning the sale or lease of the property upon which it is located or concerning activities conducted or products sold on the property upon which it is located.

49. "Sign, off-premises" means an advertising device including the supporting structure which directs the attention of the general public to a business, service, or activity not usually conducted or a product not usually sold upon the premises where such a sign is located. Such a sign shall not include: on-premises signs, directional or other official sign or signs which have a significant portion of their face devoted to giving public service information (date, time, temperature, weather, information, etc.).

50. "Statement of intent" means a statement preceding regulations for individual districts, intended to characterize the districts and their legislative purpose.

51. "Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling or roof next above it.

52. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four (4) feet above the top floor

level. A half-story containing independent apartments or living quarters shall be counted as a full story.

53. "Street" means all property dedicated or intended for public or private use for access to abutting lands or subject to public easements therefor, and whether designated as a street, highway, thoroughfare, parkway, throughway, expressway, road, avenue, boulevard, lane, place, circle, or however otherwise designated.

54. "Street line" means the right-of-way line of a street.

55. "Structural alteration" means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any complete rebuilding of the roof or the exterior walls.

56. "Structure" means anything constructed or erected which requires location on the ground or attached to something having location on the ground, including signs and billboards, but not including fences or walls used as fences.

57. "Use" means the purpose or activity for which a piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained.

58. "Variance" means a device used by the Board of Adjustment which grants a property owner relief from certain provisions of a Zoning Ordinance when, because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in particular hardship upon the owner, as distinguished from a mere inconvenience or a desire to make more money and which condition is not of the owner's own making.

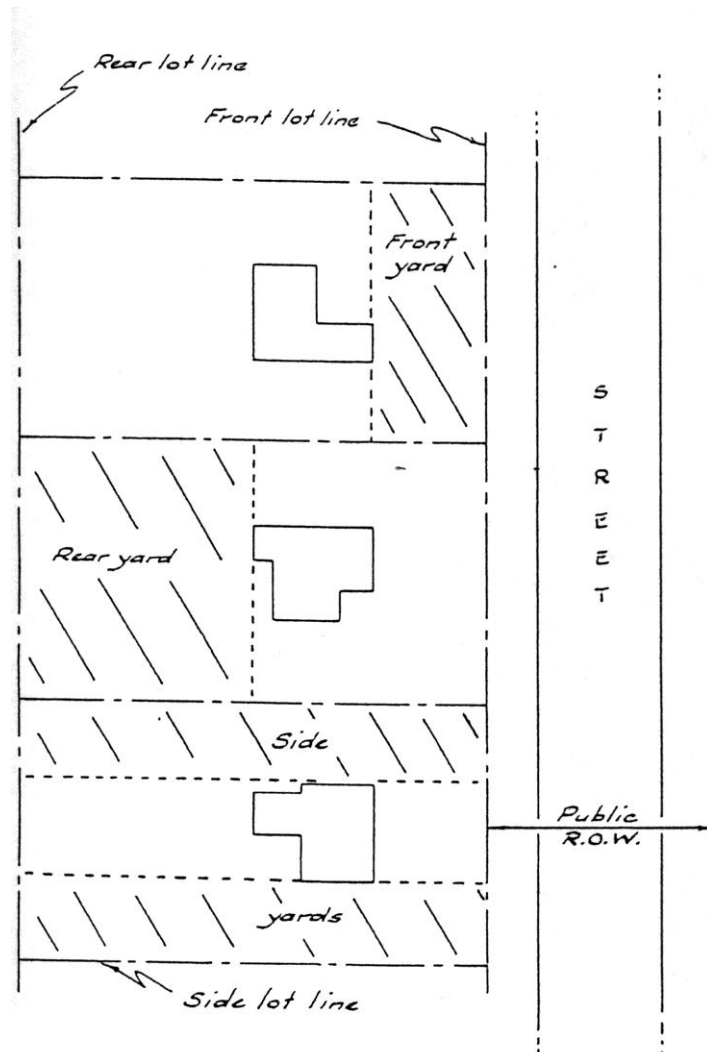
59. "Yard" means an open space on the same lot with a building, unoccupied and unobstructed by any portion of a structure from the ground upward, excepting as otherwise provided herein. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. Fences and walls are permitted in any yard, subject to height limitations as indicated herein. On corner lots there are two front yards.

60. "Yard, front" means a yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps or unenclosed porches. The narrow frontage on a corner lot. On corner lots there are two front, two side, and no rear yards.

61. "Yard, rear" means a yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner lots, there is no rear yard. On interior lots, the rear yard is the opposite end of the lot from the front yard.

62. "Yard, side" means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building. On corner lots there is a side yard opposite each front yard.

Chart 2 - Yards



63. “Zoning/Building Administrator” means the local official responsible for reviewing zoning/building permits and following a determination by the Zoning Board of Adjustment for special exceptions and variances. Decisions of the official may be appealed to the Board of Adjustment. Permits are issued by the Zoning/Building Administrator.

64. “Zoning district” means a section the City designated in the Zoning Ordinance text and delineated on the Zoning Map in which requirements for the use of land, the building and development standards are prescribed. Within each district, all requirements are uniform.

65. “Zoning map” means the map delineating the boundaries of districts which, along with the zoning text, comprises the Zoning Ordinance.

165.03 APPLICATION OF DISTRICT REGULATIONS. The regulations set by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

1. No building, structure, or land shall hereafter be used or occupied, no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the regulations herein specified for the district in which it is located.
2. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.
3. No yard or lot existing as of the effective date of this chapter shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this chapter shall meet at least the minimum requirements established by these regulations.
4. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

165.04 ESTABLISHMENT OF DISTRICTS; OFFICIAL ZONING MAP.

1. Official Zoning Map. The City shall be divided into districts, as shown on the Official Zoning Map which, together with all explanatory matter thereon, shall be adopted by ordinance. The Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 165.04 of Ordinance No. _____ of the City of Swisher, Iowa," together with the date of adoption. If, in accordance with the provisions of this chapter and Chapter 414, *Code of Iowa*, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows: "By official action of the City Council, the following changes were made to the Official Zoning Map." (Indicating the changes by ordinance numbers and date of publication.) No amendment of these regulations which involves matter portrayed on the Official Zoning Map shall become effective until after such change and entry has been made on said map. †
2. Replacement of the Official Zoning Map. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor, attested by the City Clerk, and bearing the Seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted as part of Ordinance No. _____ of the City of Swisher, Iowa." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

†See *EDITOR'S NOTE* at the end of this chapter for ordinances amending the zoning map.

165.05 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. 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, or alleys 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 City limits shall be construed as following such City limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following shorelines shall be construed to follow such shorelines, and in the event of change in the shoreline shall be construed as moving with the actual shoreline; boundaries indicated as approximately following the centerlines of streams, rivers, or other bodies of water shall be construed to follow such centerlines.
6. Boundaries indicated as parallel to or extensions of features indicated in Subsections 1 through 5 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.
7. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by Subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.
8. Where a district boundary line divides a lot which was in single ownership at the time of passage of the Zoning Ordinance, the Board of Adjustment may permit, as a special exception, the extension of the regulations for either portion of the lot not to exceed 50 feet beyond the district line into the remaining portion of the lot.
9. Whenever the Council vacates and disposes of a street or alley, adjacent districts shall extend to the center line of the vacation.
10. Whenever a variance exists between the Zoning Map and the legal description on an amendment to this chapter, the legal description applies.

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165.06 NONCONFORMITIES. Within the districts established by this chapter there exist lots, structures, uses of land and structures, and characteristics of use which were lawful before these regulations were adopted or amended, but which are prohibited, regulated, or restricted under the terms of this chapter or future amendments. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Further nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district. To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this chapter and upon which actual building construction has been carried on diligently. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

165.07 NONCONFORMING LOTS OF RECORD. In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, notwithstanding limitations imposed by other provisions of the chapter. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, if the lot shall conform to the regulations for the district in which such lot is located. Variance of yard or height requirements shall be obtained only through the action of the Board of Adjustment.

165.08 NONCONFORMING USES OF LAND (OR LAND WITH MINOR STRUCTURES ONLY). Where at the time of adoption of this chapter lawful use of land exists which would not be permitted by the regulations imposed by this chapter, and where such use involves no individual structure with a replacement cost exceeding \$1,000.00, the use may be continued so long as it remains otherwise lawful, provided:

1. No such nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of these regulations.
2. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this chapter.
3. If any such nonconforming use of land ceases for any reason for a period of twelve (12) months, then any subsequent use of such land shall conform to the regulations specified by this chapter for the district in which such land is located.
4. No additional structure not conforming to the requirements of this chapter shall be erected in connection with such nonconforming use of land.

165.09 NONCONFORMING STRUCTURES. Where a lawful structure exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of these regulations by reason of restrictions on area, lot coverage, height, yards, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such nonconforming structure may be enlarged or altered in such a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
2. Should such nonconforming structure or nonconforming portion of structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.
3. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

165.10 NONCONFORMING USES OF STRUCTURES OR OF STRUCTURES AND PREMISES IN COMBINATION. If lawful use involving individual structures with a replacement cost of \$1,000.00 or more, or of structure and premises in combination, exists at the effective date of adoption or amendment of this chapter, that would not be allowed in the district under the terms of these regulations, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions.

1. No existing structure devoted to a use not permitted by this chapter in the district in which it is located shall be enlarged, extended, constructed, reconstructed, or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.
2. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of this chapter, but no such use shall be extended to occupy any land outside such building.
3. If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a special exception be changed to another nonconforming use provided that the Board of Adjustment, either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accordance with the provisions of this chapter.
4. Any structure, or structure and land in combination, in or on which a nonconforming use is superseded by a permitted use, shall thereafter conform to the regulations for the district, and the nonconforming use may not thereafter be resumed.
5. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for twelve (12) consecutive months or for eighteen (18) months during any three-year period (except when government action impedes access to the premises) the structure, or structure and premises in combination, shall not thereafter be used except in conformity with the regulations of the district in which it is located.
6. When nonconforming use status applies to a structure and premises in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land. Destruction for the purpose of this subsection is defined as damage to an extent of more than fifty percent (50%) of the replacement cost at time of destruction. Replacement shall begin within six (6) months of the time of destruction or the nonconforming status shall expire. Said construction shall also be completed

within eighteen (18) months of the time of destruction or the nonconforming status shall expire.

165.11 REPAIRS AND MAINTENANCE. On any building devoted in whole or in part to any nonconforming use, work may be done on ordinary repairs, provided that the cubic content of the building as it existed at the time of adoption or amendment of this chapter shall not be increased.

165.12 USES UNDER SPECIAL EXCEPTION PROVISIONS NOT NONCONFORMING USES. Any use which is permitted as a special exception in a district under the terms of this chapter (other than a change through Board of Adjustment action from a nonconforming use to another use not generally permitted in the district) shall not be deemed a nonconforming use in such district, but shall without further action be considered a conforming use.

165.13 ADMINISTRATION AND ENFORCEMENT. A Zoning/Building Administrator designated by the City Council shall administer and enforce these regulations. The administrator may be provided with the assistance of such other persons as the City Council may direct. If the Zoning/Building Administrator finds that any of the provisions of this chapter are being violated, such administrator shall notify in writing the person responsible for such violation, indicating the nature of the violation and noting the action necessary to correct it. The administrator shall also notify the City Attorney, who shall take any action necessary to correct the violation.

165.14 ZONING/BUILDING PERMITS REQUIRED. No building or other structure shall be erected, moved or added to, without a permit therefor issued by the Zoning/Building Administrator. No zoning/building permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustment. Zoning/building permits shall be applied for with the City Clerk and shall expire two (2) years after the date of issuance if work is begun within one year of issuance or after one year if no substantial beginning of construction has occurred. Extensions of time may be granted in writing by the Zoning/Building Administrator for good cause. Prior to the issuance of said permit the identification of all property survey corners shall be provided to the administrator or the administrator may require the placement of said corners from a certified survey.

165.15 FEES. All fees for permits or certificates of occupancy shall be set by Council resolution.

165.16 RESIDENTIAL DWELLING STANDARDS. In all zoning districts permitting single-family dwellings on a single lot, the following standards shall apply to all such dwellings:

1. The dwelling shall have a minimum dimension of not less than twenty (20) feet. This dimension shall be measured at the building line.
2. There shall be a continuous and complete permanent perimeter foundation on the main body or the foundation may be a slab-style both with a 10-inch width by 42-inch depth frost footing.
3. The main structure shall be permanently affixed to the foundation.
4. All hitches, wheels, axles, and any other types of towing devices shall be permanently removed.
5. All dwelling units shall have a roof pitch of 3:12 or greater.

165.17 BOARD OF ADJUSTMENT; ESTABLISHMENT AND PROCEDURE.

1. Board Created. A Board of Adjustment is hereby established which shall consist of five (5) members. The terms of office of the members of the Board and the manner of their appointment shall be as provided by statute. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.
2. Proceedings of the Board of Adjustment. The Board of Adjustment shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the Chairperson and at such other time as the Board may determine. The Chairperson or, in that person's absence, the Acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. The Board of Adjustment shall, through its Secretary, keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to 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. All actions of the Board concerning special exceptions or variances shall also be recorded in the office of the County Recorder. It shall be the responsibility of the appellant to record said action and all corresponding stipulations and further said action shall take effect upon the Board receiving sufficient confirmation of the same. A copy of said action shall also be filed in the office of the Zoning/Building Administrator.
3. Compensation. Each member of the Board of Adjustment shall serve without compensation.

165.18 BOARD OF ADJUSTMENT; POWERS AND DUTIES. The Board of Adjustment shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Zoning/Building Administrator in the enforcement of these regulations.
 - A. Appeals to the Board may be taken by any person aggrieved, or by any officer, department, board or bureau of the City of Swisher affected by any decision of the administrative officer. Such appeal shall be taken within sixty (60) days by filing with the Zoning/Building Administrator, and with the Board a notice of appeal specifying the grounds thereof. The Zoning/Building Administrator shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken.
 - B. The Board shall fix a reasonable time for the hearing of the appeal, and give not less than seven (7) days or more than twenty (20) days public notice thereof in Swisher, and decide the same within thirty (30) days. At said hearing, any party may appear in person, by agent or by attorney.
 - C. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning/Building Administrator from whom the appeal is taken certifies to the Board of Adjustment after the Notice of Appeal is filed with the administrator, that by reason of facts stated in the certificate, a stay would, in the administrator's opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed other than

by a restraining order which may be granted by the Board of Adjustment or by a court of record on application, on notice to the Zoning/Building Administrator from whom the appeal is taken and on due cause shown.

2. Special Exceptions; Conditions Governing Applications; Procedures. To hear and decide only such special exceptions as the Board of Adjustment is specifically authorized to pass on by the terms of these regulations; to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under this chapter, or to deny special exceptions when not in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board of Adjustment unless and until:

A. A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

B. The Board shall fix a reasonable time for the hearing of the special exception, and give not less than seven (7) days or more than twenty (20) days public notice thereof in Swisher, and decide the same within thirty (30) days.

C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

D. The Board of Adjustment shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception, that the granting of the special exception will not adversely affect the public interest.

3. Variance, Conditions Governing Application; Procedures. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board of Adjustment unless and until:

A. A written application for a variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district;

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(3) That the special conditions and circumstances do not result from the actions of the applicant;

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district.

No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted or nonconforming use of land, structures, or buildings in other districts may be considered grounds for the issuance of a variance.

B. The Board shall fix a reasonable time for the hearing of the variance, and give not less than seven (7) days or more than twenty (20) days public notice thereof in Swisher, and decide the same within thirty (30) days.

C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

D. The Board of Adjustment shall make findings that requirements of Section 165.18 have been met by the applicant for a variance.

E. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

F. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

In granting any variance, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. 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 these regulations and punishable under this chapter. Under no circumstances shall the Board of Adjustment grant a variance to allow a use not permissible under the terms of this chapter in the district involved or any use expressly or by implication prohibited by the terms of this chapter in said district.

4. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the Zoning/Building Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in the application of this chapter. The Council may provide for its review of variances granted by the Board of Adjustment before their effective date. The Council may remand a decision to grant a variance to the Board of Adjustment for further study. The effective date of the variance is, in such case, delayed for thirty days from the date of the remand.

165.19 APPEALS FROM THE BOARD OF ADJUSTMENT. Any person or persons, or any taxpayer, department, board or bureau of the City, or other areas subject to this chapter aggrieved by any decision of the Board of Adjustment may seek review by a court of record of such decision, in the manner provided by the laws of the State and particularly by Chapter 414, *Code of Iowa*.

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165.20 DISTRICTS ESTABLISHED. The City is herewith divided into the following districts:

AG	Agricultural District
RS	Residential Single-Family District
RM	Residential Multi-Family District
MH	Mobile Home District
BC	Central Business Commercial District
AC	Arterial Commercial District
LI	Light Industrial District
HI	Heavy Industrial District

These districts are established as identified on the Official Zoning Map which, together with all explanatory matters thereon, is hereby adopted by reference and declared to be part of this chapter.

165.21 AG - AGRICULTURAL DISTRICT.

1. Intent. This district is intended to provide for areas in which agriculture and related uses are encouraged as the principal use of land. However, uses which may be offensive to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic or physical appearance or other similar factors are not permitted. The district prohibits urban density residential use until these areas may be served by utilities and services of the City. This district is also intended to preserve land suited for eventual development into other uses, pending proper timing for economical and practical provisions of streets, utilities, schools and other facilities so that reasonably compact development will occur and the fiscal integrity of the City is preserved.
2. Permitted Uses. The following uses are permitted in the AG District:
 - A. Agriculture, including the usual agricultural buildings and structures and excluding offensive uses.
 - B. Home occupations.
 - C. Publicly owned and operated buildings and facilities.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the AG District.
 - A. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.
 - B. Private garages, barns and other farm buildings.
 - C. Roadside stands offering for sale only agricultural products or other products produced on the premises.
 - D. Temporary buildings for the uses incidental to construction work. Such buildings shall be removed upon the completion or abandonment of the construction work.
 - E. Satellite dishes.

4. Special Exceptions. Certain uses may be permitted in the AG District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.

- A. Cemeteries, crematories or mausoleums.
- B. Commercial kennels.
- C. Stables, private or public.
- D. Greenhouses and nurseries.
- E. Publicly operated sanitary landfills.
- F. Private recreational camps, golf courses and recreational facilities.
- G. Public or private utility substations, relay stations, etc.
- H. Churches or accessory facilities (on or off site).

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the AG District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (the lesser of)
20 acres	200 feet	50 feet	25 feet	50 feet	2½ stories or 35 feet, excluding farm buildings
Special exceptions and publicly owned and operated buildings and facilities are not subject to bulk regulations.					

6. Off-Street Parking. The following off-street parking requirements shall apply in the AG District:

- A. Dwellings: two (2) parking spaces on the lot for each living unit in the building.
- B. Churches: one (1) parking space on the lot for each five (5) seats in the main auditorium.
- C. Public buildings and facilities: one (1) parking space for each 300 square feet of gross floor area or one (1) parking space for each five (5) seats in the main assembly area.
- D. Roadside stands: one (1) parking space for each 50 square feet of enclosed floor area.
- E. Greenhouses and nurseries: one (1) parking space per 1,000 square feet of enclosed floor area.

7. Off-Street Loading. The following off-street loading requirements shall apply in the AG District:

- A. All activities or uses allowed in the AG District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the AG District:
- A. Off-premises signs, except for political signs, are not permitted.
 - B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
 - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
 - D. No sign may imitate or resemble an official traffic control sign, signal or device.
 - E. Signs shall not encroach or extend over public right-of-way.
 - F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
 - G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
 - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

[The next page is 819]

165.22 RS - RESIDENTIAL SINGLE-FAMILY DISTRICT.

1. Intent. This district is intended to provide for a variety of residential areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety and welfare. Low and medium population density neighborhoods are recognized and provided for by varying the minimum bulk regulations. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public facilities shall be taken into consideration when the lot area requirement is established for the various residential areas of the City.
2. Permitted Uses. The following uses are permitted in the RS District:
 - A. Single-family detached dwellings.
 - B. Family homes.
 - C. Home occupations.
 - D. Publicly owned and operated buildings and facilities.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the RS District:
 - A. Private garages.
 - B. Raising and keeping of animals and fowl, but not on a commercial basis or on a scale objectionable to neighbors; the keeping or raising of pigs, sheep, goats, cattle or horses is prohibited except on premises containing two (2) acres or more and except within an enclosure at least 300 feet from any residence now existing or hereafter erected, except that of the owner.
 - C. Private recreational facilities.
 - D. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon the completion or abandonment of the construction work.
 - E. Parking lots.
4. Accessory Buildings. No accessory building may be erected in any required front yard and no separate accessory build may be erected within 10 feet of a main building. Where a garage is entered perpendicularly or nearly perpendicularly from the alley it must be kept 15 feet from the alley line. In no case, however, shall the accessory building be closer than 5 feet to the lot line. Accessory buildings located in the rear yard may not occupy more than 30 percent of the rear yard or be greater than 18 feet in height. No accessory building shall be used without occupancy of the principal building.
5. Special Exceptions. Certain uses may be permitted in the RS District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
 - A. Nursery schools.
 - B. Public or private utility substations, relay stations, etc.
 - C. Churches or accessory facilities (on or off site).

- D. Private schools with a curriculum similar to public schools.
 - E. Golf courses but not miniature courses or separate driving tees.
 - F. Bed and breakfast houses.
 - G. Hospitals.
 - H. Satellite dishes. (Satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings, except that a 72-hour temporary use is allowed. No satellite dish shall exceed a diameter of 12 feet.)
6. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the RS District:

Minimum Zoning Symbol	Minimum Lot Area	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Minimum Side Yard (feet)	Minimum Rear Yard (feet)	Maximum Height (the lesser of)
7 RS	7,200 sq. ft.	60	25	10	20	2 ½ stories or 35 feet
12 RS	12,000 sq. ft.	80	25	15	30	2½ stories or 35 feet
40 RS	1 acre	200	50	20	50	2½ stories or 35 feet

7. Off-Street Parking. The following off-street parking requirements shall apply in the RS District:
- A. Dwellings: two (2) parking spaces on the lot for each living unit in the building.
 - B. Churches: one (1) parking space on the lot for each five (5) seats in the main auditorium.
 - C. Public buildings and facilities: one (1) parking space for each 300 square feet of gross floor area or one (1) parking space for each five (5) seats in the main assembly area.
 - D. Elementary, junior high and equivalent private or parochial schools: one (1) parking space for each classroom and office plus one (1) parking space for each 300 square feet of gross floor area in the auditorium or gymnasium.
 - E. Senior high schools and equivalent private or parochial schools: one (1) parking space for each employee and one (1) parking space for each ten (10) students.
 - F. Colleges, universities, institutions of higher learning, and equivalent private or parochial schools: one (1) parking space for each employee and one (1) parking space for each five (5) students.
 - G. Nursery schools: one (1) parking space per employee.

8. Off-Street Loading. The following off-street loading requirements shall apply in the RS District:
 - A. All activities or uses allowed in the RS District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
 - B. Loading shall not be permitted to block public right-of-way.
9. Signs. The following sign regulations shall apply to the RS District:
 - A. Off-premises signs, except for political signs, are not permitted.
 - B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
 - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
 - D. No sign may imitate or resemble an official traffic control sign, signal or device.
 - E. Signs shall not encroach or extend over public right-of-way.
 - F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
 - G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
 - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.
10. Vehicles – Trailers. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any lot other than in completely enclosed buildings. No automotive vehicle or trailers of any kind shall be parked or stored on any lot in this district in a required front yard except when parked on a designated gravel, concrete or asphalt surfaced driveway. No vehicle of any kind shall be parked on public or private property so as to create a safety hazard with pedestrian or vehicular traffic.

[The next page is 827]

165.23 RM - RESIDENTIAL MULTI-FAMILY DISTRICT.

1. Intent. This district is intended to provide for a variety of multi-family residential areas where public utilities and services are available and to encourage a suitable living environment through the promotion of public health, safety and welfare. Medium and high population density neighborhoods are recognized and provided for by varying the minimum bulk regulations. Criteria such as topography, soil types, access, traffic load on streets, schools, utilities, recreation and other public facilities shall be taken into consideration when the lot area requirement is established for the various multi-family residential areas of the City.
2. Permitted Uses. The following uses are permitted in the RM District:
 - A. Single-family detached dwellings.
 - B. Multi-family dwellings (as per bulk regulations).
 - C. Public parks and recreation open space.
 - D. Home occupations.
 - E. Family homes.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the RM District:
 - A. Private garages.
 - B. Parking lots.
 - C. Raising and keeping of animals and fowl, but not on a commercial basis or on a scale objectionable to neighbors; the keeping or raising of pigs, sheep, goats, cattle or horses is prohibited except on premises containing two (2) acres or more and except within an enclosure at least 100 feet from any residence existing or hereafter erected.
 - D. Private recreational facilities.
 - E. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon the completion or abandonment of the construction work.
4. Accessory Buildings. No accessory building may be erected in any required front yard and no separate accessory build may be erected within 10 feet of a main building. Where a garage is entered from the alley it must be kept 15 feet from the alley line. In no case, however, shall the accessory building be closer than 5 feet to the lot line. Accessory buildings located in the rear yard may not occupy more than 30 percent of the rear yard or be greater than 12 feet in height. No accessory building shall be used without occupancy of the principal building.
5. Special Exceptions. Certain uses may be permitted in the RM District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
 - A. Nursery schools.
 - B. Public or private utility substations, relay stations, etc.
 - C. Churches and publicly owned and operated buildings and facilities.

- D. Private schools with curriculum similar to public schools.
 - E. Lodging houses, dormitories, fraternities and sororities.
 - F. Satellite dishes.
 - G. Bed and breakfast houses.
 - H. Health care facilities.
6. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the RM District:

Zoning Symbol	Minimum Lot Area per Dwelling (sq. ft.)	Units Gross Acre	Minimum Lot Area (sq. ft.)	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Minimum Side Yard (feet)	Minimum Rear Yard (feet)	Maximum Height (feet)
2 RM	2,000	(21)	12,000	80	25	15	30	45
3 RM	3,000	(14)	12,000	80	25	15	30	45
4 RM	4,000	(10)	12,000	80	25	10	30	2 stories
5 RM	5,000	(8)	12,000	80	25	15	30	45

Single-family dwellings shall meet the same bulk regulations as the multi-residential uses described above. Where public sewer facilities are not available, not less than 1 acre of lot area is required.

7. Off-Street Parking. The following off-street parking requirements shall apply in the RM District:
- A. Single-family dwellings: two (2) parking spaces on the lot.
 - B. Multi-family dwellings: two (2) parking spaces on the lot for each dwelling unit.
 - C. Churches: one (1) parking space on the lot for each five (5) seats in the main auditorium.
 - D. Elementary, junior high and equivalent private or parochial schools: one (1) parking space for each classroom and office plus one (1) parking space per each 300 square feet of gross floor area in auditorium or gymnasium.
 - E. Senior high schools and equivalent private or parochial schools: one (1) parking space for each employee and one (1) parking space for each ten (10) students.
 - F. Colleges, universities, institutions of higher learning, and equivalent private or parochial schools: one (1) parking space for each employee and one (1) parking space for each five (5) students.
 - G. Public buildings and facilities: one (1) parking space for each 300 square feet of gross floor area or one (1) parking space for each five (5) seats in the main assembly area.
 - H. Nursery schools: one (1) parking space per employee and one space for each five (5) children that the school is licensed for.

8. Off-Street Loading. The following off-street loading requirements shall apply in the RM District:
 - A. All activities or uses allowed in the RM District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
 - B. Loading shall not be permitted to block public right-of-way.
9. Signs. The following sign regulations shall apply to the RM District:
 - A. Off-premises signs, except for political signs, are not permitted.
 - B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
 - C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
 - D. No sign may imitate or resemble an official traffic control sign, signal or device.
 - E. Signs shall not encroach or extend over public right-of-way.
 - F. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
 - G. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
 - H. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.
10. Vehicles – Trailers. Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any lot other than in completely enclosed buildings. No automotive vehicle or trailers of any kind shall be parked or stored on any lot in this district in a required front yard except when parked on a designated gravel, concrete or asphalt surfaced driveway. No vehicle of any kind shall be parked on public or private property so as to create a safety hazard with pedestrian or vehicular traffic.

[The next page is 835]

165.24 MH - MOBILE HOME DISTRICT.

1. Intent. This district is intended to provide for certain medium density residential areas in the City now developed as mobile home parks which by reason of their design and location are compatible with surrounding residential areas and areas of the City where similar development seems likely to occur. This district has useful application as a transition zone between shopping areas and residential areas and is normally located along thoroughfares where direct access to the site is available.
2. Permitted Uses. The following uses are permitted in the MH District:
 - A. Mobile homes located in an approved mobile home park.
 - B. Home occupations.
3. Accessory Uses.
 - A. Private recreational facilities.
 - B. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon completion or abandonment of the construction work.
4. Special Exceptions.
 - A. Public or private utility substation, relay stations, etc.
 - B. Nursery schools.
 - C. Churches or accessory facilities (on or off site).
 - D. Satellite dishes. (Satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings, except that a 72-hour temporary use is allowed. No satellite dish shall exceed a diameter of 12 feet.)
5. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the MH District:
 - A. Density is limited to seven (7) mobile homes per acre.
 - B. No mobile home shall be located within fifteen (15) feet of any other, within five (5) feet of any driveway or parking space, within forty (40) feet of the right-of-way line of a street.
 - C. Each mobile home site shall be provided with a stand consisting of a solid, 6-inch thick, poured Portland cement concrete apron not less than eight (8) feet wide and forty-five (45) feet long and a paved outdoor patio of at least one hundred eighty (180) square feet located at the main entrance to the mobile home. Said apron shall have 42-inch frost-free footings around the perimeter.
 - D. A greenbelt, at least thirty (30) feet in width, shall be located along all boundaries of each mobile home park, except where it is crossed by driveways.
 - E. Each mobile home shall be located on a lot having an area of at least 5,000 square feet.
 - F. Each mobile home park shall be graded and drained so that rain water will not stand in pools or puddles.

G. Each street and parking area in any mobile home park shall be bounded by a sidewalk at least four (4) feet wide.

H. All minimum street widths in mobile home parks shall be approved as private streets and further comply with the following:

- (1) No parking on street:
 - one-way14 feet
 - two-way20 feet
- (2) Parallel parking on side:
 - one-way20 feet
 - two-way30 feet
- (3) Parallel parking both sides:
 - one-way26 feet
 - two-way36 feet

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165.25 BC - CENTRAL BUSINESS COMMERCIAL DISTRICT.

1. Intent. This district is intended to accommodate the major business and office concentration in Swisher. It is characterized further by a variety of stores and related activities which occupy the central commercial area of Swisher. This district is intended to be the single central business district of Swisher and no other use of this district shall be utilized other than contiguously with the currently established BC District.
2. Permitted Uses. The following uses are permitted in the BC District:
 - A. Business sales and services conducted entirely within the building, including those with incidental manufacturing or processing of goods or products.
 - B. Offices/clinics.
 - C. Multi-family dwellings – 2nd floor and above, when in mixed use with other commercial uses.
 - D. Publicly owned and operated buildings and facilities.
 - E. Single-family detached dwellings for BC-1 only.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the BC District:
 - A. Outdoor sales and service.
 - B. Private garages.
 - C. Parking lots.
 - D. Temporary buildings for uses incidental to construction work. Such buildings shall be removed upon the completion or abandonment of the construction work.
 - E. Accessory uses customarily incidental to any permitted principal use.
4. Special Exceptions. Certain uses may be permitted in the BC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
 - A. Service stations.
 - B. Warehousing.
 - C. Outdoor storage.
 - D. Churches or accessory facilities (on or off site).
 - E. Satellite dishes. (Satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings, except that a 72-hour temporary use is allowed. No satellite dish shall exceed a diameter of 12 feet.)
5. Bulk Regulations. The following requirements shall provide for light and air around permitted residential uses and buildings in the BC District:

Minimum Zoning Symbol	Minimum Lot Area	Minimum Lot Width (feet)	Minimum Front Yard (feet)	Minimum Side Yard (feet)	Minimum Rear Yard (feet)	Maximum Height (the lesser of)
BC-1	None, unless used solely for residential purposes, then 12,000 square feet	20	10 feet	None, unless it is adjacent to a lot zoned residential, in which case, the side yard shall be equal to the minimum side yard required in the adjacent zoned lot	If adjacent to a residential district, the rear yard shall be equal to the minimum rear yard required in the adjacent district, but in no instance less than 15 feet	2 stories or 28 feet
BC-2	None, unless used solely for residential purposes, then 12,000 square feet	20	None	None, unless it is adjacent to a lot zoned residential, in which case, the side yard shall be equal to the minimum side yard required in the adjacent zoned lot	If adjacent to a residential district, the rear yard shall be equal to the minimum rear yard required in the adjacent district, but in no instance less than 15 feet	3 stories or 45 feet

Where this district abuts a lower intensity district, the greater side and rear yard setbacks apply.

(Ord. 263 – May 17 Supp.)

6. Off-Street Parking.
 - A. Sales and service buildings: one (1) parking space per 300 square feet of gross floor area.
 - B. Offices: one (1) parking space per 300 square feet of gross floor area.
 - C. Clinics: one (1) parking space per 300 square feet of gross floor area.
 - D. Churches: one (1) parking space on the lot for each 5 seats in the main auditorium.
 - E. Public buildings and facilities: one (1) parking space per 300 square feet of gross floor area.
 - F. Hotels and motels: one (1) parking space per room plus one (1) parking space for each employee.
7. Off-Street Loading. The following off-street loading requirements shall apply in the BC District:
 - A. All activities or uses allowed in the BC District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
 - B. Loading shall not be permitted to block public right-of-way.
8. Signs. The following sign regulations shall apply to the BC District:

- A. Off-premises signs, except for political signs, are not permitted.
- B. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- C. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- D. No sign may imitate or resemble an official traffic control sign, signal or device.
- E. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- F. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- G. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.
- H. The total square footage of sign area shall not exceed the lineal number of feet of street frontage of the lot.
- I. Signs, awnings, canopies and marquees as attached to and part of a building may project over the right-of-way but in no case shall they be closer to the curb line than two feet.

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165.26 AC - ARTERIAL COMMERCIAL DISTRICT.

1. Intent. This district is intended to provide for certain areas of the City for the development of service, retail, and other non-residential uses which because of certain locational requirements and operational characteristics are appropriately located in close proximity to arterial and other main thoroughfares. Residential type structures are also permitted. The district is further characterized by a typical need for larger lot sizes, off-street parking, adequate setbacks, clear vision, safe ingress and egress, and access to other adjacent thoroughfares.
2. Permitted Uses.
 - A. Sales and display rooms and lots, including yards for the storage or display of new or used building materials but not for any scrap or salvage operation storage or sales.
 - B. Offices and clinics.
 - C. Churches or accessory facilities (on or off site).
 - D. Hotels and motels.
 - E. Any other retail or service sales business, including food preparation for sale off-premises.
 - F. Publicly owned and operated buildings and facilities.
3. Accessory Uses. Uses of land or structures customarily incidental and subordinate to a permitted use in the AC District:
 - A. Private recreational facilities.
 - B. Living quarters of persons employed on the premises and not rented or otherwise used as a separate dwelling.
 - C. Private garages.
 - D. Parking lots.
 - E. Temporary buildings for the uses incidental to construction work. Such buildings shall be removed upon the completion or abandonment of the construction work.
4. Special Exceptions. Certain uses may be permitted in the AC District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
 - A. Public or private utility substations, relay stations, etc.
 - B. Satellite dishes. (Satellite dish antennas, either permanent or temporary, shall be considered as accessory buildings, except that a 72-hour temporary use is allowed. No satellite dish shall exceed a diameter of 12 feet.)
5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the AC District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (the lesser of)
12,000 square feet	80 feet	35 feet	If adjacent to a residential district, the side yard shall be equal to the minimum side yard required in the adjacent district, but in no instance less than 15 feet	If adjacent to a residential district, the rear yard shall be equal to the minimum rear yard required in the adjacent district, but in no instance less than 15 feet	3 stories or 45 feet

6. Off-Street Parking. The following off-street parking requirements shall apply in the AC District:

- A. Sales and service buildings: one (1) parking space per 300 square feet of gross floor area.
- B. Offices/clinics: one (1) parking space per 300 square feet of gross floor area.
- C. Churches: one (1) parking space on the lot for each five (5) seats in the main auditorium.
- D. Public buildings and facilities: one (1) parking space per 300 square feet of gross floor area or one (1) parking space for each five (5) seats in the main assembly area.
- E. Hotels and motels: one (1) parking space per room plus one (1) parking space for each employee.

7. Off-Street Loading. The following off-street loading requirements shall apply in the AC District:

- A. All activities or uses allowed in the AC District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the AC District:

- A. Off-premises signs are permitted.
- B. Off-premises signs shall comply with the setbacks of the districts they are located in. Other bulk regulations do not apply. Off-premises signs are governed by State and Federal regulations along highways, where zoning exists.
- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.

- E. No sign may imitate or resemble an official traffic control sign, signal or device.
- F. Signs shall not encroach or extend over public right-of-way.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- H. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.
- J. There shall only be allowed a sign for each 50 feet of street frontage provided there are not more than two such signs for each business and provided said sign or signs do not exceed a total area on any one face of two square feet per lineal foot of street frontage and not to exceed two such faces.

[The next page is 857]

165.27 LI - LIGHT INDUSTRIAL DISTRICT.

1. Intent. This district is intended to provide for areas of development by industrial firms that have high standards of performance and that can locate in close proximity to residential and business uses. The district regulations are designed to permit the development of any manufacturing or industrial operations which on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the community as a whole by reasons of noise, dust, smoke, odor, traffic, physical appearance or other similar factors. Outdoor storage is allowed in this district when the material is enclosed within a solid fence at least six (6) feet high and said fence being within required building lines. All industrial operations must be in an enclosed building. No residential uses are permitted in this district.
2. Permitted Uses. The following uses are permitted in the LI District:
 - A. Any nonresidential building or use which would not be hazardous, obnoxious, offensive or unsightly by reason of odor, sound, vibrations, radioactivity, electrical interference, glares, liquid or solid waste, smoke, or other air pollutants.
 - B. Storage, manufacture, compounding, processing, packing and/or treatment of products, exclusive of the rendering or refining of fats and/or oils.
 - C. Manufacture, compounding, assembly and/or treatment of articles or merchandise derived from previously prepared materials.
 - D. Assembly of appliances and equipment, including manufacture of small parts.
 - E. Wholesale distribution of all standard types of prepared or packaged merchandise.
 - F. Sale and storage of building materials. Outdoor or open storage shall be allowed only when the material is enclosed within a solid fence at least six (6) feet high and said fence being within required building lines.
 - G. Contractors' offices and storage of equipment.
 - H. Public or private utility substations, relay stations, etc.
3. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the LI District.
 - A. Accessory buildings and uses customarily incidental to a permitted use.
 - B. Living quarters for watchmen or custodians of industrial properties.
4. Special Exceptions. Certain uses may be permitted in the LI District subject to specific conditions and requirements intended to make them compatible with and acceptable to adjacent uses.
5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the LI District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (the lesser of)
none	none	25 feet	None, except that if adjacent to an "R" district, then it shall be 15 feet	25 feet, unless bordering a railroad right-of-way, in which case none required	3 stories or 45 feet

6. Off-Street Parking. The following off-street parking requirements shall apply in the LI District:

- A. All commercial uses shall provide one (1) parking space on the lot for each 300 square feet of floor area.
- B. All industrial uses shall provide one (1) parking space on the lot for each two (2) employees of maximum number employed at any one time.

7. Off-Street Loading. The following off-street loading requirements shall apply in the LI District:

- A. All activities or uses allowed in the LI District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.
- B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the LI District:

- A. Off-premises signs are permitted.
- B. Off-premises signs shall comply with the setbacks of the districts they are located in. Other bulk regulations do not apply. Off-premises signs are governed by State and Federal regulations along highways, where zoning exists.
- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal or device.
- F. Signs shall not encroach or extend over public right-of-way.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- H. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.

- I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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165.28 HI - HEAVY INDUSTRIAL DISTRICT.

1. Intent. This district is intended to provide areas for activities and uses of a heavy industrial character and is the least restrictive of any district. In the best interest of the City, certain uses in the HI District shall be subject to final City Council approval, conditional approval, or denial to insure that proper safeguards are taken. No residential uses are permitted.

2. Permitted Uses. There may be any use, excluding residential uses and mobile homes. The following uses must be given separate City Council approval before a zoning/building permit is issued:

- A. Acid manufacture.
- B. Cement, lime, gypsum, or plaster of Paris manufacture.
- C. Distillation of bones.
- D. Explosive manufacture or storage.
- E. Fat rendering.
- F. Fertilizer manufacture.
- G. Gas manufacture.
- H. Garbage, offal, or dead animals, reduction or dumping.
- I. Glue manufacture.
- J. Petroleum, or its products, refining of.
- K. Smelting of tin, copper, zinc, or iron ores.
- L. Stockyards or slaughter of animals.
- M. Junk yards. Must be surrounded by a solid fence at least six (6) feet high located within building lines and the junk piled not higher than the fence.

Before granting such separate approval, the City Council shall refer applications to the Commission for study, investigation and report. If no report is received in thirty (30) days, the City Council may assume approval of the application. The City Council shall then, after holding a public hearing, consider all of the following provisions in its determination upon the particular use at the location requested: (1) that 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; (2) that such use shall not impair an adequate supply of light and air to surrounding property; (3) that such use shall not unduly increase congestion in the streets, or public danger of fire and safety; (4) that such use shall not diminish or impair established property values in adjoining or surrounding property; and (5) that such use shall be in accord with the intent, purpose and spirit of this chapter and the Comprehensive Plan of the City.

3. Required Conditions.

- A. 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 shall be employed and subject to all State

and Federal regulations and shall not impose or cause undue public infrastructure capacity limitations.

B. All principal buildings and all accessory buildings or structures, including loading and unloading facilities, shall be located at least one hundred (100) feet from any “R” District boundary, except where adjoining a railroad right-of-way, and fifty (50) feet from any commercial boundary.

4. Accessory Uses. Uses of land or structure customarily incidental and subordinate to a permitted use in the HI District.

A. Accessory buildings and uses customarily incidental to a permitted use.

B. Living quarters for watchmen or custodians of industrial properties.

5. Bulk Regulations. The following requirements shall provide for light and air around permitted uses and buildings in the HI District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height (the lesser of)
none	none	30 feet	None, except that when adjacent to an “R” district, it shall be 100 feet and 50 feet from any commercial boundary	30 feet, unless bordering a railroad right-of-way, in which case none required	3 stories or 45 feet

6. Off-Street Parking. The following off-street parking requirements shall apply in the HI District:

A. All commercial uses shall provide one (1) parking space on the lot for each 300 square feet of floor area.

B. All industrial uses shall provide one (1) parking space on the lot for each two (2) employees of maximum number employed at any one time.

7. Off-Street Loading. The following off-street loading requirements shall apply in the HI District:

A. All activities or uses allowed in the HI District shall be provided with adequate receiving facilities accessible by motor vehicle off any adjacent service drive or open space on the same zoning lot.

B. Loading shall not be permitted to block public right-of-way.

8. Signs. The following sign regulations shall apply to the HI District:

A. Off-premises signs are permitted.

B. Off-premises signs shall comply with the setbacks of the districts they are located in. Other bulk regulations do not apply. Off-premises signs are governed by State and Federal regulations along highways, where zoning exists.

- C. No sign may be lighted in a manner which impairs the vision of the driver of any motor vehicle.
- D. No sign may obstruct the view of any highway or railroad so as to render dangerous the use of the highway.
- E. No sign may imitate or resemble an official traffic control sign, signal or device.
- F. Signs shall not encroach or extend over public right-of-way.
- G. No sign may obscure or physically interfere with an official traffic control sign, signal or device.
- H. No advertisement or advertising structure shall be posted, erected or maintained which simulates any official, directional or warning sign erected or maintained by the State, County, Municipal or other governmental subdivision or which incorporates or makes use of lights simulating or resembling traffic signals or control signs.
- I. No advertisement shall be posted or maintained on rocks, fences, trees, or other perennial plants, or on poles maintained by public utilities.

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165.29 SUPPLEMENTARY DISTRICT REGULATIONS.

1. **Building Lines on Approved Plats.** Whenever the plat of a land subdivision approved by the Planning Commission and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.
2. **Structures to Have Access.** Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.
3. **Erection of More Than One Principal Structure on a Lot.** In any district, more than one structure housing a permitted or permissible principal use may be erected on a single lot, provided that yard and other requirements of this chapter shall be met for each structure as though it were on an individual lot.
4. **Accessory Buildings.** No accessory building may be erected in any required front yard and no separate accessory building may be erected within ten (10) feet of a main building. Where a garage is entered perpendicularly or nearly perpendicularly from the alley it must be kept 15 feet from the alley line. In no case, however, shall the accessory building be closer than five (5) feet to the lot line. Accessory buildings located in the rear yard may not occupy more than thirty percent (30%) of the rear yard or be greater than 18 feet in height. No accessory building shall be used without occupancy of the principal building. All accessory buildings and uses must be located on the same lot or tract of ground as the principal building or use.
5. **Fences.** No person shall install a new fence unless such person has obtained permit from the City and has agreed in writing that said installation complies with all ordinances and requirements of the City for such work. An application, provided by the City, shall be accompanied by a sketch which shall designate the location of the fence on the lot or parcel of land. No permit shall be issued by the City, if said fence is in violation of the rules and regulations of the City, or in the Engineer's judgement, it is not advisable to do so. A permit fee, as established by Resolution of the Council, shall be paid upon submission of application to the City. Additional fence and hedge regulations:
 - A. No fence or hedge more than 30 percent solid or more than four (4) feet high may be located within 25 feet of a street intersection as per paragraph fourteen (14).
 - B. Fences or hedges less than four (4) feet high may be located on any remaining part of a lot.
 - C. Fences or hedges less than six (6) feet high may be erected on those parts of a lot that are as far back or farther back from the street than the main building.
 - D. Higher fences may be allowed by request of a variance from the City Zoning Board of Adjustment.
6. **Height Limits.** Chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tank, water towers,

ornamental towers, spires, wireless tower, grain elevators, or necessary mechanical appurtenances are exempt from the height regulations provided in specific district regulations.

7. Front Yards. Where, on the effective date of the Zoning Ordinance, 40 percent or more of a frontage was occupied by two or more buildings, then the front yard is established in the following manner:

A. Where the building farthest from the street provides a front yard not more than ten (10) feet deeper than the building closest to the street, then the front yard for the frontage is and remains an average of the then existing front yards.

B. Where the condition described in paragraph A is not the case and a lot is within 100 feet of a building on each side, then the front yard is a line drawn from the closest front corners of these two adjacent buildings.

C. Where the conditions described in paragraphs A and B are not the case and the lot is within 100 feet of an existing building on one side only, then the front yard is the same as that of the existing adjacent building.

8. Other Projections. Sills, belt courses, cornices, and ornamental features may project only two (2) feet into a required yard.

9. Fire Escapes. Open fire escapes, fireproof outside stairways and balconies opening upon fire towers, and the ordinary projections of chimneys and flues into a rear yard for a distance of not more than three and one-half (3½) feet when so placed as not to obstruct light and ventilation, may be permitted by the Zoning/Building Administrator.

10. Porches. Open, unenclosed porches may extend ten (10) feet into a front yard.

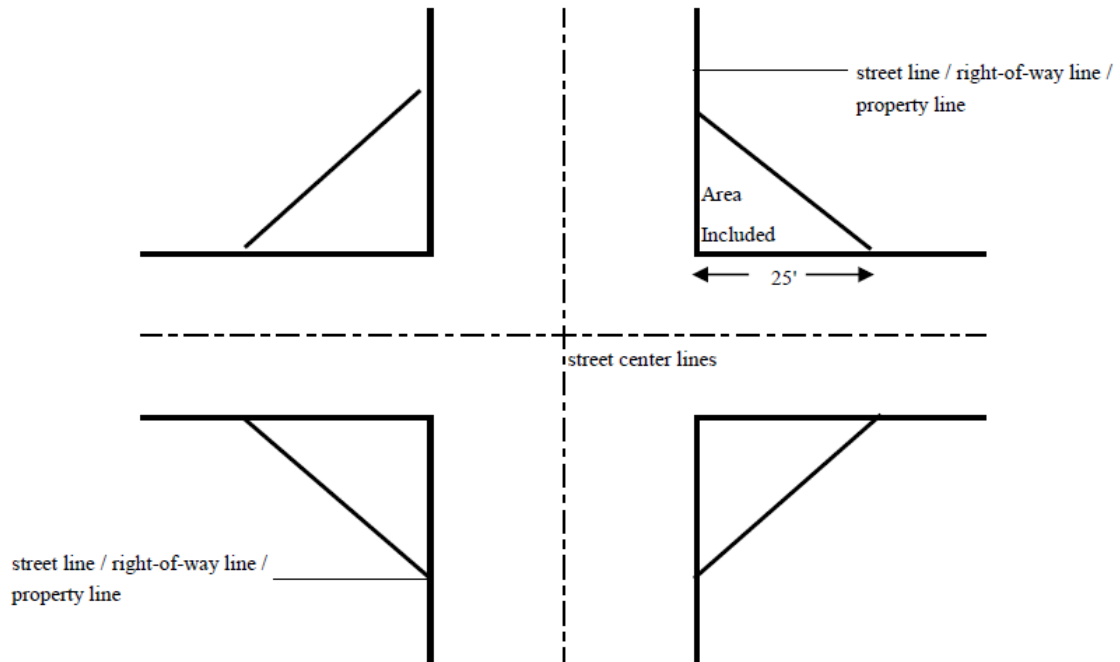
11. Terraces. Terraces which do not extend above the level of the ground (first) floor may project into a required yard, provided these projections are distant at least two (2) feet from the adjacent side lot line.

12. Utility Service Lines. Nothing in these regulations shall have the effect of prohibiting utility service lines.

13. Depth of Front Yards. Depth of required front yards shall be measured at right angles to a straight line joining the foremost points of the side lot lines. The foremost point on the side lot line, in the case of rounded property corners at street intersections, shall be assumed to be the point at which the side and front lot lines would have met without such rounding. Front and rear front yard lines shall be parallel.

14. Yards and Visibility. On a corner lot in any district, nothing shall be erected, placed, planted or allowed to grow in such a manner as materially to impede vision between the height of three (3) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines / right-of-way lines / property lines of such corner lots and a line joining points along said street lines / right-of-way lines / property lines twenty-five (25) feet from the point of the intersection (see Diagram).

Diagram
Corner Lots – Yards and Visibility



15. All vehicular parking spaces located in required front yards shall be a minimum of ten (10) feet in width and be surfaced with gravel, concrete, or asphalt.
16. Private swimming pools shall be allowed only in rear yards and shall not be allowed in front or side yards.

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165.30 ADMINISTRATION. All questions of interpretation and enforcement shall be first presented to the Zoning/Building Administrator, or that person's assistant, and such questions shall be presented to the Board of Adjustment only on appeal from the decision of the Zoning/Building Administrator, and recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Chapter 414, *Code of Iowa*.

165.31 AMENDMENTS. The regulations, restrictions, and boundaries may, from time to time, be amended, supplemented, changed, modified, or repealed, provided that at least seven (7) days' notice of the time and place of such hearing shall be published in a paper of general circulation in the City. In no case shall the notice be published more than twenty (20) days prior to the hearing. The Zoning/Building Administrator shall mail to property owners within 200 feet of the subject property a copy of the public hearing notice and an explanation of their rights to be heard or to protest the proposed action on the property. Failure of property owners to receive this notice shall not invalidate any subsequent action of the City. Further, the applicant shall be required to post a sign upon the property. The City shall provide the applicant with the required form of the sign. The sign shall be displayed at a prominent place on the property. Placement of the sign shall be subject to the approval of the Zoning/Building Administrator. Notice shall be posted not less than seven (7) days before the public hearing. Notwithstanding Section 414.2, as a part of an ordinance changing land from one zoning district to another zoning district or an ordinance approving a site development plan, the Council may impose conditions on a property owner which are in addition to existing regulations if the additional conditions have been agreed to in writing by the property owner before the public hearing required under this section or any adjournment of the hearing. The conditions must be reasonable and imposed to satisfy public needs which are directly caused by the requested change. In case, however, of a written protest against a change or repeal which is filed with the City Clerk and signed by the owners of twenty percent or more of the area of the lots included in the proposed change or repeal, or by the owners of twenty percent or more of the property which is located within two hundred feet of the exterior boundaries of the property for which the change or repeal is proposed, the change or repeal shall not become effective except by the favorable vote of at least three-fourths of all the members of the Council. The protest, if filed, must be filed before or at the public hearing. Proposed amendments not recommended by the Planning and Zoning Commission shall become effective only upon a favorable vote of three-fourths (¾) of the members of the City Council. All zoning amendment application forms shall be approved by resolution of the City Council.

165.32 PENALTIES FOR VIOLATION. Any person violating any of the provisions of this chapter or any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall, upon conviction, be subject to the penalties set forth in Section 1.14 of the Swisher Code of Ordinances or a violation of any of the provisions of this chapter shall constitute a municipal infraction and may be enforced under Chapter 3 of the Swisher Code of Ordinances. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other legal action as is necessary to prevent any violation.

165.33 SCHEDULE OF FEES, CHARGES, AND EXPENSES. The City Council shall establish a schedule of fees, charges, and expenses and a collection procedure for zoning district changes, zoning permits, appeals, and other matters pertaining to this chapter. The schedule of fees shall be posted in the office of the Zoning/Building Administrator, and the City Clerk, and may be altered or amended only by the City Council, as recommended by the Commission.

Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

165.34 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning/Building Administrator. The Administrator shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

EDITOR'S NOTE	
The following ordinances have been adopted amending the Official Zoning Map and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.	
ORDINANCE NUMBER	DATE ADOPTED
217 (Replacement of Official Zoning Map)	June 9, 2008
244	April 13, 2015
248	July 13, 2015
255	March 14, 2016
259	October 10, 2016
263	May 8, 2017
265	November 13, 2017
288	August 8, 2022
289	August 8, 2022
02-2024	February 26, 2024

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CHAPTER 166

SUBDIVISION REGULATIONS

166.01 Short Title and Purpose	166.17 Plat to Conform to Community Development Plans and Design Standards
166.02 Application	166.18 Street Standards
166.03 Recording of Plat	166.19 Block and Lot Standards
166.04 Fees Established	166.20 Parks and Open Space
166.05 Penalties	166.21 Nonresidential Subdivisions
166.06 Building Permit to Be Denied	166.22 Procedures and Submission Requirements for Plats
166.07 Definitions	166.23 Requirements of the Preliminary Plat
166.08 Improvements Required	166.24 Procedures for Review of Preliminary Plats
166.09 Urban Renewal Area Exception	166.25 Duration of Approval of Preliminary Plat
166.10 Inspection	166.26 Authorization to Install Improvements
166.11 Minimum Improvements	166.27 Completion and Acceptance of Improvements
166.12 Easements Required	166.28 Requirements of the Final Plat
166.13 Bonding and Surety Required	166.29 Waivers and Exceptions
166.14 Minimum Standards Prescribed	166.30 Changes and Amendments
166.15 Land Suitability	166.31 Recoupment of Fees
166.16 Lands Subject to Flooding	

166.01 SHORT TITLE AND PURPOSE. This chapter shall be known as the “Subdivision Ordinance” of the City of Swisher, Iowa. The purpose of this chapter is to provide minimum standards for the design, development and improvement of all new subdivisions of land, so that existing land uses will be protected, and so that adequate provisions are made for public facilities and services, and so that growth occurs in an orderly manner, consistent with the general planning of the community and to promote the public health, safety and general welfare of the citizens of the City of Swisher, Iowa.

166.02 APPLICATION. Every owner of any tract or parcel of land who has subdivided or shall hereafter subdivide or plat said tract or parcel into two (2) or more parts, (excepting acquisition plans as defined herein) for the purpose of laying out an addition, subdivision, building lot, or lots, acreage or suburban lots within the City or within the area of the Fringe Area Policy Agreement with Johnson County, Iowa, shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots herein contained or placing the plat on record. Section 354.9 of the *Code of Iowa* and the Fringe Area Policy Agreement with Johnson County, Iowa, grants the City of Swisher the authority to review said proposed subdivisions outside the city limits.

166.03 RECORDING OF PLAT. No subdivision plat or street dedication within the City of Swisher, Iowa, or within the area of the Fringe Area Policy Agreement shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, or street dedication has been reviewed and approved in accordance with the provisions of this chapter. Upon the approval of the final plat by the City Council, it shall be the duty of the subdivider to immediately file such plat with the County Auditor and County Recorder, as required by law. Such approval shall be revocable after thirty (30) days, unless such plat has been duly recorded and evidence thereof filed with the City Clerk within such thirty (30) days.

166.04 FEES ESTABLISHED. The City Council shall establish, from time to time, by resolution, fees for the review of plats. No plat for any subdivision shall be considered filed with the City Clerk, unless and until the fees accompany said plat are paid to the City Clerk.

166.05 PENALTIES. Any person or persons, as owner or agent, who shall dispose of or offer for sale any lot or lots within the area of jurisdiction of this chapter, until the plat thereof has been approved by the City Council, and recorded as required by law, shall forfeit and pay one hundred dollars (\$100.00) to the City for each lot or part of lot sold, disposed of or offered for sale; the violator will also be subject to a simple misdemeanor and/or municipal infraction for each lot sold in violation of this provision. Nothing contained herein shall in any way limit the City's right to any other remedies available to the City for the enforcement of this chapter. These remedies include, but are not limited to, the City's ability to institute an action for injunction, mandamus or other appropriate action or proceeding to prevent any pending disposal or offer of sale, or to prevent any further disposal or offer to sale in violation of this chapter.

166.06 BUILDING PERMIT TO BE DENIED. No building permit shall be issued for construction on any lot, parcel, or tract, where a subdivision is required by ordinance, unless and until a final plat of such subdivision has been approved and recorded in accordance with this chapter, and until the improvements required by this chapter have been accepted by the City or other provisions have been made in writing with the City regarding the completion of improvements. A building permit may be issued without the establishment of sidewalks in place. However, before any occupancy of the subdivided property occurs, the subdivider must install all sidewalks as required by this chapter or obtain a written waiver of the requirement from the City regarding the same.

166.07 DEFINITIONS. For the purposes of this chapter, certain words herein shall be defined as and interpreted as follows.

1. "Acquisition plat" means the graphical representation of the division of land or rights in land, created as the result of a conveyance or condemnation for right-of-way purposes by an agency of the government or other persons having the power of eminent domain.
2. "Aliquot part" means a fractional part of a section within the United States public land survey system. Only the fractional parts one-half, one-quarter, one-half of one-quarter, or one-quarter of one quarter shall be considered an aliquot part of a section.
3. "Alley" means public property dedicated to public use primarily for vehicular access to the back or side of properties otherwise abutting on a street.
4. "Auditor's plat" means a subdivision plat required by either the auditor or the assessor, prepared by a surveyor under the direction of the Auditor.
5. "Block" means an area of land within a subdivision that is entirely bounded by streets, railroad rights-of-way, rivers, tracts of public land, or the boundary of the subdivision.
6. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the City Council or other hiring authority.
7. "Community Development Plan" means the general plan for the development of the community that may be titled master plan, land use plan, or some other title, which plan has been adopted by the City Council. Such "Community Development Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.

8. “Conveyance” means an instrument filed with a recorder as evidence of the transfer of title to land, including any form of deed or contract.
9. “Cul-de-sac” means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.
10. “Design Standards” means the City of Swisher, Iowa, Design Standards as adopted by resolution and as may be from time to time amended thereafter by action of the City Council.
11. “Division” means dividing a tract or parcel of land into two parcels of land by conveyance or for tax purposes. The conveyance of an easement, other than public highway easement, shall not be considered a division for the purpose of this chapter.
12. “Easement” means an authorization by a property owner for another to use a designated part of his property for a specified purpose.
13. “Flood hazard area” means any area subject to flooding by a one percent (1%) probability flood, otherwise referred to as a 100-year flood; as designated by the Iowa National Resources Council or the Federal Insurance Administration.
14. “Flood Plain Management Ordinance” means an ordinance regulating the development of all property located within a flood plain as shown on the FEMA flood plain map for the City of Swisher. No provision of this chapter shall vary the terms and conditions of the Flood Plain Management Ordinance.
15. “Floodway” means the channel of a river or other watercourse and the adjacent lands that must be reserved in order to discharge the waters of a 100-year flood without cumulatively raising the waterway surface elevation more than one (1) foot.
16. “Forty-acre aliquot part” means one-quarter of one-quarter of a section.
17. “Fringe Area Policy Agreement” refers to the current Fringe Area Policy Agreement entered into between the City of Swisher and Johnson County regarding zoning and subdivision issues in the area around the City of Swisher as defined in that Agreement. All applications referring the applicant to the City of Swisher shall follow the terms and provisions of this chapter and of the Zoning Ordinance unless the Fringe Area Policy Agreement specifically provides otherwise.
18. “Government lot” means a tract, within a section, that is normally described by a lot number as represented and identified on the township plat of the United States public land survey system.
19. “Improvements” mean changes to land necessary to prepare it for building sites including but not limited to grading, filling, street paving, curb paving, sidewalks, walk ways, water mains, sewers, drainage ways, storm water detention, utilities and other public works items and appurtenances.
20. “Lot” means a tract of land represented and identified by number or letter designation on an official plat.
21. “Lot, corner” means a lot situated at the intersection of two streets.
22. “Lot, double frontage” means any lot that is not a corner lot that abuts two streets.

23. “Metes and bounds description” means a description of land that uses distances and angles, uses distances and bearings, or describes the boundaries of the parcel by reference to physical features of the land.
24. “Official plat” means either an auditor’s plat or a subdivision plat that meets the requirements of this chapter and has been filed for record in the offices of the Recorder, Auditor and Assessor.
25. “Owner” means the legal entity holding title to the property being subdivided, or such representative or agent as is fully empowered to act on its behalf.
26. “Parcel” means a part of a tract of land.
27. “Permanent real estate index number” means a unique number or combination of numbers assigned to a parcel of land pursuant to Section 441.29 of the *Code of Iowa*.
28. “Planning Commission” means the appointed commission designated by the City Council for the purpose of this chapter, and may also be the Zoning Commission, in which case such commission shall be known as the Planning and Zoning Commission.
29. “Plat” means a map drawing, or chart on which a subdivider’s plan for the subdivision of land is presented, that he or she submits for approval and intends, in final form, to record.
30. “Plats Officer” means the individual assigned the duty to administer this chapter by the City Council or other appointing authority.
31. “Plat of survey” means the graphical representation of survey of one or more parcels of land, including a complete and accurate description of each parcel within the plat, prepared by a registered land surveyor.
32. “Proprietor” means a person who has a recorded interest in land, including a person selling or buying land pursuant to a contract, but excluding persons holding mortgage, easement, or lien interest.
33. “Street” means public property, not an alley, intended for vehicular circulation. In appropriate context the term “street” may refer to the right-of-way bounded by the property lines of such public property, or may refer to the paving installed within such right-of-way.
34. “Street, arterial” means a street primarily intended to carry traffic from one part of the City to another, and not intended to provide access to abutting property.
35. “Street, collector” means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.
36. “Subdivider” means the owner of the property being subdivided, or such other person or entity empowered to act on the owner’s behalf.
37. “Subdivision” means the division of land into two or more parts for the purpose, whether immediate or future, of transfer of ownership or building development. The term, when appropriate to the context may refer to the process of subdividing or to land subdivided.
38. “Subdivision plat” means the graphical representation of the subdivision of land, prepared by a registered land surveyor, having a number or letter designation for

each lot within the plat and a succinct name or title that is unique for the county where the land is located.

39. “Surveyor” means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 114 of the *Code of Iowa*.

40. “Tract” means an aliquot part of a section, a lot within an official plat, or a government lot.

41. “Utilities” means the systems for the distribution or collection of water, gas, electricity, wastewater, phone and storm water.

166.08 IMPROVEMENTS REQUIRED. The subdivider shall, at his or her expense, install and construct all improvements required by this chapter and the Design Standards of the City of Swisher, and as shown on the preliminary plat within the subdivision proper. All required improvements shall be constructed in accordance with the aforementioned Design Standards established for such improvements and shall be reviewed by the City and the City Engineer.

166.09 URBAN RENEWAL AREA EXCEPTION. The City may consider waiving portions of Section 166.08 if all of the following circumstances exist:

1. The subdivision is located within an active urban renewal area eligible for tax increment reimbursement; and
2. The subdivider can demonstrate how the City’s participation in cost sharing for improvements within the subdivision will achieve the goals and objectives of the urban renewal area; and
3. The subdivider is prepared to offer the City an infrastructure improvement, property, or service that is equal or commensurate to the City’s financial contribution and meets the stated goals and objectives of the City’s Urban Renewal Plan.

166.10 INSPECTION. The City Engineer shall inspect all improvements to insure compliance with the requirements of this chapter. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

166.11 MINIMUM IMPROVEMENTS. The improvements set forth below are considered the minimum improvements necessary to protect the public health, safety and welfare. All of the minimum improvements mandated by this section shall be designed and constructed in accordance with the requirements of this chapter, the Swisher Design Standards, and the minimum requirements of all applicable State or Federal regulatory agencies or departments. The subdivider must provide evidence of any and all construction permits, highway or road easements and access, or other appropriate documentation from private entities, and State or Federal regulatory agencies prior to approval of the final plat. Easements from and for all utility companies will also be required. The City reserves the right to request changes to a proposed subdivision that may exceed the minimum municipal capacities for streets, sewer, water, or other services to project the needs as defined in the current Land Use Plan. The City and the City Engineer shall determine said additional needs or future capacity requirements. Developments must adhere to the current Future Land Use Plan for meeting ultimate growth and meet all zoning requirements passed by resolution of the City Council.

1. Streets in General. The subdivider of land being subdivided shall provide the grading of the entire street right-of-way, alley or public place and provide appropriate

paving, including curb and gutter on all streets. All streets shall be constructed in compliance with this chapter and the City of Swisher Design Standards.

A. Under all circumstances the City shall require, as a condition for approval of the plat, dedication and at the subdivider's expense, improvement of a street system that may have a width greater than necessary to meet the needs of the platted area, but necessary to complete the City street system as it relates to both the area being platted and designated use to meet the goals as outlined in the current Future Land Use Plan. The streets with right-of-way shall, upon final approval and acceptance by the City, become the property of the City.

2. Sanitary Sewer System in General. The subdivider of the land being platted shall make adequate provision for the disposal of sanitary sewage from the platted area, with due regard being given to present or foreseeable future needs. There shall be constructed, at the subdivider's expense, a sanitary sewer system including all necessary pumping stations, pumping equipment, sewer access manholes, service lines and all other necessary or desirable appurtenances to provide for the discharge of sanitary sewage from all lots or parcels of land within the platted area to a connection with the City's existing sanitary sewer system. The City's role in reviewing the plans is to determine the sanitary sewer's placement, size, route, and including the point of connection to the existing system. The sanitary sewer system shall be constructed in compliance with this chapter and the City of Swisher Design Standards.

A. Under all circumstances the City will require, as a condition for approval of the plat, installation of a sanitary sewer that is larger than necessary to meet the needs of the platted area, but necessary to complete the City's sanitary sewer system as it relates to both the area being platted and the intended service areas required to be served as outlined within the current Future Land Use Plan.

B. The City's inability to efficiently collect or treat wastewater may be grounds for rejection of a proposed subdivision. A proportional fee may be requested by the City, from the subdivider, to pay for the necessary upgrades in the existing sewer system.

C. The sewer system improvements shall, upon inspection, after approval and acceptance by the City, become the property of the City.

D. The subdivider must provide evidence of construction permits from the Iowa Department of Natural Resources prior to construction and approval of the final plat.

3. Storm Sewer/Storm Water Management System in General. The subdivider of land being platted shall install and construct a storm sewer/storm water management system adequate to serve the platted area. The storm sewer/storm water management system shall be constructed in compliance with this chapter and the City of Swisher Design Standards.

A. Under some circumstances the City may require, as a condition for approval of the plat, installation, at the subdivider's expense, of a storm sewer/storm water management system that is larger than necessary to meet the minimum needs of the platted area, but necessary to complete the City total storm sewer system as it relates to both the area being platted and tributary areas as designated within the current Future Land Use Plan.

- B. Where existing conditions exist or where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Council may withhold approval of the subdivision until provision has been made for the recovery of the cost for the improvement of said potential condition in such sum as the City Council shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.
- C. The subdivider must document that adequate storm water management detention is included in the storm sewer design as per the Design Standards. All storm water management detention facilities shall be included within the platted area.
- D. The storm sewers shall, upon inspection, approval and acceptance by the City, become the property of the City. However, the City will not own any detention basin or other storage facility and shall require written provisions for the maintenance of each facility from the subdivider.
4. Water System in General. The subdivider of land being platted shall install and construct a water system, at the subdivider's expense, to adequately serve all lots or parcels of land within the platted area, with due regard to the present and design year needs of the entire platted area. The water mains, valving and service lines shall be constructed in compliance with the City of Swisher Design Standards. (Source and Storage requirements are to be designed according to the Iowa Department of Natural Resources, or Johnson County, when applicable.)
- A. The subdivider shall construct one complete system to serve all lots or tracts within the platted area. When applicable, such system shall meet all Iowa Department of Natural Resources criteria for a "public" system. The subdivider shall install adequate water facilities, to include hydrants and system valving that shall be subject to City review.
- B. Under all circumstances the City will require, as a condition for approval of the plat, installation of water mains that are larger than necessary to meet the needs of the platted area, but necessary to plan for the City's future water system needs, and as it relates to both the area being platted and the current Future Land Use Plan.
- C. When applicable, all Iowa Department of Natural Resources permits must be secured prior to construction and approval of the final plat.
- D. All water mains and lines shall be placed within the public right-of-way or utility easements located adjacent to the platted right-of-ways or property lines. If it becomes necessary to replace, relocate, or maintain these water mains in the future, any damage within the public right-of-way will be at the expense of the utility owner. *(Ord. 298 – Sep. 23 Supp.)*
- E. All water mains installed shall be extended from and to the edge of subdivision to accommodate some future City's water system connection.
5. Other Improvements: The owners and/or subdivider of the land being platted shall be responsible, at their expense, for the installation of sidewalks within the street area; mid-block pedestrian walks between lots; the installation of erosion control measures; and the installation of street lighting. All such improvements shall be under

the direction of the City Engineer. All improvements shall be constructed in compliance with the provisions of the City of Swisher Design Standards.

6. Fire Protection Water Tank Requirements.

A. Water Reservoir Requirements. Developers shall provide emergency water reservoirs for fire protection purposes within subdivisions as follows:

Subdivisions from:

- (1) 5 or more lots: One 30,000-gallon reservoir.
- (2) 51 or more lots: Two 30,000-gallon reservoirs.

B. Protection Tank Location. The protection tank location shall be determined by the City of Swisher after receiving a recommendation from the Fire Chief and City Engineer.

(1) If one (1) protection tank is required for residential properties, the tank shall be located within 1,000 feet of all residential properties along unobstructed roadway (measured along the centerline to the nearest lot line, extended).

(2) If two (2) or more protection tanks are required for residential properties, the tanks shall be equally accessible throughout the subdivision with no more than 1,000 feet of unobstructed roadway (measured along the centerline to the nearest lot line, extended) to a protected structure.

(3) All commercial properties shall install or be within 1,000 feet of unobstructed roadway (measured along centerline to the nearest lot line, extended) to a 30,000-gallon underground cistern or protection tank

C. Specifications.

(1) Pea gravel or granular backfill material meeting Iowa DOT requirements will be used for backfilling and for base.

(2) Tanks must be made of fiberglass or alternate material as approved by the City Engineer and installed to manufacturer's specifications.

(3) The drafting/suction pipe height above the finished roadway surface shall be twenty-four (24) inches to the centerline of the elbow fitting of the 6-inch pipe. A 2-inch inspection port shall be installed on the vent pipe.

(4) The drafting pipe shall extend to within six (6) inches of the bottom of the tank with a fitted strainer to protect against debris one-half (1/2) inch or more in size. The length of the draft pipe should be kept to a minimum after meeting the requirements of Subsection (3). The drafting pipe shall be six (6) inches in diameter and shall terminate horizontally with an elbow to accept a 6-inch national standard female hydrant fitting with cap and chain.

- (5) A screened, 8-inch cistern / site vent pipe with the opening facing downward will be included in all tanks. The vent pipe shall be a minimum of thirty-six (36) inches above the finished roadway surface. The vent pipe shall have a 2-inch capped inspection port located at the top.
- (6) A 4-inch fill pipe with elbow will be provided by the installer which terminates horizontally twenty-four (24) inches above the finished roadway surface, measured at the pipe with 5-inch Storz Connection and cap with two and one-half (2 ½) inch national standard thread adaptor in the cap connected with a chain.
- (7) The maximum distance from the road edge to the drafting pipe shall not exceed eight (8) feet. This will allow a fire pumper, positioned on the finished road surface using one section of standard hard hose suction hose, to easily reach the draft pipe.
- (8) All aboveground piping shall be primed and then painted red for suction with a six (6) inch adapter, white for vent, and yellow for fill by the installer before the tank is approved for service and filled.
- (9) A twenty-four (24) inch man-way with internal ladder which is terminated at the landscaped surface shall be included in all tanks.
- (10) The contractor installing the tank shall also install a “no parking” sign at a location specified by the Fire Department. The sign and installation shall be at the expense of the developer.
- (11) The installation shall be made with consideration of the winter temperatures. Steps will be taken to ensure the piping and water in the tank will not freeze during extended periods of below zero weather.
- (12) An automatic fill system for replacing the water in the protection tank shall be installed.
- (13) Maintenance of fire protection tanks or cisterns shall be done at the sole expense of the property owner(s) and/or owners’ association.
- (14) Installation of a vent and sight assembly for each tank that allows for drive by checks of tank levels approved by the Jefferson-Monroe Fire Department.

D. Administration.

- (1) Inspections. The developer, or the contractor installing the protection tank, shall notify the Jefferson-Monroe Fire Department protecting the fire district in which the subdivision is located of the completion of the installation for purposes of inspection. Forty-eight (48) hour notification shall be provided, and a \$25.00 fee shall be submitted to the Jefferson-Monroe Fire Department to cover the cost of inspection. All new or upgraded installations shall require inspection. Water tank inspection forms may be obtained from the Swisher City Clerk or Fire Department protecting the district.
- (2) The developer, or contractor installing the protection tank, shall post with the City of Swisher a \$5,000 performance and payment bond to be held by the City for a period of two (2) years after the

protection tank has received final Fire Department approval pursuant to the City of Swisher's supplemental specifications to Iowa Statewide Urban Standard Specifications for Public Improvements.

(3) Any municipal or private Fire Department may utilize the water tank for fire protection purposes. Refilling shall be accomplished as soon as possible.

(4) The Fire Department having fire protection responsibility for the district in which the subdivision is located shall inspect the protection tanks in the spring of each year and shall ensure the water tanks are refilled shortly after each use.

(5) The property where the fire protection tank(s) are located shall be dedicated to the City of Swisher as a lot or permanent easement upon the completion of the development.

(6) This ordinance shall not apply to any structure with a fire protection sprinkler system installed that meets the current building and NFPA Codes.

E. Optional Water Reservoir Requirements and Location with Fire Service Distribution System.

(1) A change in the amount of water and reservoir locations is acceptable if the following list of items is met:

a. A fire service distribution system, buried below the frost line, is constructed from the reservoir with multiple outlet/access points. These outlet/access points are to be able to independently maintain 1,000 GPM fire flow while maintaining positive water pressure at the outlet, with exception of the outlet/access point at the reservoir itself (which is allowed to be a negative pressure drafting set-up).

b. The fire service distribution system piping shall be designed and constructed using water main materials meeting the City of Swisher Design Standards for water main grade materials. Piping is to be colored purple and/or marked with locator tape labeled "Fire Protection" to differentiate from potable water piping.

c. Adjacent distribution outlet/access points shall be equally accessible throughout the subdivision with no more than 1,000 feet of unobstructed roadway (measured along the centerline to the nearest lot line, extended) to a protected structure.

d. All outlet/access points will be constructed as described in Section 3 (C) and (D).

e. All outlet/access points must be isolated using a buried gate valve installed below frost depth, with a drain that opens when shut off, to protect from cold weather. The gate valve shall meet requirements for potable water isolation valves in accordance with the City of Swisher Design Standards.

- f. The gate valve control at the outlet/access must rise at least 3 inches above, and no more than 6 inches beside, the top-most part of the outlet/access piping.
 - g. The gate valve control must fit a 4- or 5-sided hydrant wrench per Jefferson Monroe Fire Department.
 - h. A design plan shall be submitted to the City of Swisher and Jefferson Monroe Fire Department for review, documenting the following:
 - i. Preliminary Plat Map showing number and location of residential, commercial, and industrial properties to be served.
 - ii. Hydraulic calculations for the proposed fire protection piping system to document positive pressure under flow conditions.
 - iii. Details for the outlet/access points.
- (2) If the above items are deemed acceptable by the City of Swisher and the Jefferson Monroe Fire Department Chief Officer, the following allowances shall be acceptable:
- a. Minimum of one (1) 30,000 gallon tank is sufficient for up to 150 residential properties.
 - b. Minimum of one (1) 30,000 gallon tank is sufficient for up to 20 commercial properties.
- (3) The final protection tank locations and fire service distribution system shall be approved by the City of Swisher after receiving a recommendation from the Fire Chief and City Engineer.

(Subsection 6 – Ord. 298 – Sep. 23 Supp.)

166.12 EASEMENTS REQUIRED.

1. **Public Utilities.** The flexible placement of easements for public utilities shall be allowed; however, such placement shall be subject to the review of the governing body and all applicable utility companies prior to approval of the final plat. All utilities to serve each lot shall be placed in a common easement. Said easements shall be at least ten (10) feet in width. Easements of greater width may be required along lot lines, or across lots when necessary for the placement and maintenance of utilities. No buildings or structures, except as necessary for utilities, shall be permitted on such easements.
2. **Easements Along Streams and Watercourses.** Wherever any stream or surface watercourse is located in an area that is being subdivided, the subdivider shall, at the subdivider's own expense, make adequate provisions for the proper drainage of surface water and shall provide and dedicate to the City an easement equal to the floodway along said stream or watercourse to ensure the proper maintenance of the watercourse, as approved by the City.

166.13 BONDING AND SURETY REQUIRED.

1. Performance Bond. All improvements shall be completed within two (2) years of the date of City Council approval of agreement. The amount of the surety shall be 120 percent of the opinion of probable construction costs as approved by the City Engineer.
2. Maintenance Surety. Prior to receiving final plat approval, the contractor responsible for installing the publicly owned and maintained improvements shall provide a maintenance bond to the City in the amount of 100 percent of the contract amount for the publicly owned and maintained improvements. A bond for street surface improvements shall be for a period of four (4) years. Bonds for improvements related to sanitary sewer, storm sewer, or water distribution facilities shall be for a period of two (2) years. The applicant shall provide temporary easements to the City with the maintenance surety. The temporary easements shall be vacated at such time as permanent easements or right-of-way documents are recorded.

166.14 MINIMUM STANDARDS PRESCRIBED. The standards set forth in this chapter and those contained in the Design Standards shall be considered the minimum standards necessary to protect the public health, safety, and general welfare. These standards should also be considered in accordance with the requirements of applicable State and federal agencies. In the event that the City's minimum standards should conflict with applicable State and Federal requirements, the State and federal requirements shall prevail.

166.15 LAND SUITABILITY. No land shall be subdivided that is found to be unsuitable for subdividing by reason of flooding, ponding, poor drainage, adverse soil conditions, adverse geological formations, unsatisfactory topography or other conditions likely to be harmful to the public health, safety or general welfare, unless such unsuitable conditions are corrected to the satisfaction of the City. If land is found to be unsuitable for subdivision for any of the reasons cited in this section, the City Council shall state its reasons in writing and afford the subdivider an opportunity to present data regarding such unsuitability. Thereafter, the City Council may reaffirm, modify or withdraw its determination regarding such unsuitability.

166.16 LANDS SUBJECT TO FLOODING. No subdivision containing land located in a floodway or a flood hazard area shall be approved by the City unless the land is of such size and shape that it will contain a suitable area for development as allowed by the zone in which the lot is located. Those areas subject to flooding shall be determined by the U.S. Federal Emergency Management Agency (FEMA) flood plain map for the City of Swisher. Land located within a "flood hazard" area or a "floodway" may be included within a plat as follows, subject to the approval of the City and appropriate regulatory agencies.

1. Included within individual lots in the subdivision with approved grading operations, and subject to the limitations of this section.
2. Reserved as open space or outlot for recreation use by all owners of lots in the subdivision, with an appropriate legal instrument, approved by the City, providing for its care and maintenance by such owners.
3. If acceptable to the City, dedicated to the City as public open space for recreation or flood control purposes.

166.17 PLAT TO CONFORM TO COMMUNITY DEVELOPMENT PLANS AND DESIGN STANDARDS. The arrangement, character, extent, width, grade and location of all streets shall conform to this chapter and the City of Swisher Design Standards. The general nature and extent of the lots and uses proposed shall conform to the Community Development Plan of the City, provided such plan has been adopted by the City; and shall conform to such other plans as the City may have adopted. The Design Standards shall have such force and effect as if they were fully set forth herein.

166.18 STREET STANDARDS. The City of Swisher Design Standards shall govern all standards for the construction of streets, trails, driveways, sidewalks, and alleys as provided therein unless specifically contradicted by the terms of this Subdivision Ordinance.

1. General. The following standards shall apply to all streets to be located within the subdivision:

A. Streets shall provide for the continuation of the designated “arterial,” “collector” and “local” streets from adjoining platted areas, and the extension of such streets onto adjoining unplatted areas. Where a plat encompasses the location for an arterial or collector streets proposed in the current Future Land Use Plan, the plat shall provide for such street designations.

B. There shall be at a minimum of two (2) ingress/egress streets adjoining an existing platted street for each proposed platted area.

C. Half-streets are prohibited; except, where an existing platted half-street abuts the subdivision, a platted half-street to complete the street shall be required.

D. Street jogs with centerline offsets of less than 125 feet shall be prohibited, except where topography or other physical conditions make such jogs unavoidable. No street jogs on “arterial” designated street will be allowed.

E. Streets shall intersect as nearly at right angles as possible; and no street shall intersect any other street at less than eighty (80) degrees.

F. At intersections of arterial streets, and otherwise as necessary, lot corners abutting the intersection shall be rounded with a radius sufficient to provide necessary space within the right-of-way for sidewalks, traffic control devices, and other necessary improvements without encroachment onto the corner lots.

G. Dead-end streets are prohibited, except where a street is planned to continue past the subdivider’s property, a temporary dead end may be allowed.

H. Streets shall connect with other existing platted streets for maintenance, fire protection and circulation. Cul-de-sacs are permitted if there are no other feasible alternatives available, and only upon City approval.

I. Alleys shall not be permitted in residential areas and may be required in commercial areas with normal street frontage. Dead-end alleys are prohibited, unless provided with a turn-around with a minimum right-of-way diameter of one hundred (100) feet.

J. When a tract is subdivided into larger than normal lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and opening of future streets and adequate utility connections as per the current Future Land Use Plan. Easements for the future openings and extensions for such streets or

utilities may, at the discretion of the City Council, be made a requirement of the plat.

K. Streets that are or will become extensions of existing streets shall be given the same name as the existing streets. New street names shall not be the same or sound similar to existing street names. All street names shall be at the approval of the City Council.

L. Private streets shall be prohibited. The City Council may approve a waiver to this rule where unusual conditions make a private street desirable, provided adequate covenants or other legal documents ensure that the City will not have or need to assume any maintenance or other responsibility for such street.

2. Railroads and Limited Access Highways. Railroad right-of-ways and limited access highways where so located as to affect the subdivision of adjoining lands shall be treated as follows:

A. In all districts a buffer strip at least fifty (50) feet in depth in addition to the normal depth of the lot required in the district shall be provided adjacent to the railroad right-of-way. A buffer strip at least twenty (20) feet in depth in addition to the normal depth of the limited access highway. This strip shall be part of the platted lots and shall be designated on the plat: "This strip is reserved for screening. The placement of structures hereon is prohibited."

B. Streets parallel to the railroad when intersecting a street that crosses the railroad at grade shall, to the extent practicable, be at a distance of at least one hundred sixty (160) feet from the railroad right-of-way. Such distance shall be determined with due consideration of the minimum distance required for future separation of grades by means of appropriate approach gradients.

166.19 BLOCK AND LOT STANDARDS. The following standards shall apply to the layout of blocks and lots in all subdivisions:

1. No residential block shall be longer than 900 feet or shorter than 300 feet measured from street line to street line. The width of blocks should be arranged so as to allow two tiers of lots, with utility easements.
2. In blocks over 700 feet in length, the City Council may require a public way or an easement at least 10 feet in width, at or near the center of the block, for use by pedestrians.
3. The size and shape of lots intended for commercial or industrial use shall be adequate to provide for the use intended, and to meet the parking, loading, and other requirements for such uses contained in the Zoning Ordinance.
4. Lot arrangement and design shall be such that all lots will provide satisfactory building sites, properly related to topography and surrounding land uses.
5. All lots shall comply with all requirements of the Zoning Ordinance applicable to the zone in which the lot is located.
6. All lots shall abut a public street or an approved private street.
7. Unless approved by the City, commercial/industrial lots shall not front on or have direct access to arterial streets. None will be permitted for residential lots.
8. All lot lines shall be at right angles to straight street lines or radial to curved street lines, except where, in the judgment of the City Council, a waiver of this provision will provide a better street and lot layout.
9. Reversed frontage lots are prohibited. Double frontage lots shall only be permitted where abutting an arterial street.

166.20 PARKS AND OPEN SPACE. All subdivisions shall be so designed as to meet the neighborhood park and open space needs of their residents. The following standards and procedures will be used to determine the park and open space requirements for all proposed developments or subdivisions greater than one-half acre in size within the City of Swisher:

1. For all developments and subdivisions, the subdivider shall be responsible for providing adequate park and open space in one or both of the following ways, depending on the decision of the City of Swisher.
 - A. If it is feasible and compatible with the Community Development Plan of the City of Swisher, as determined by the City Council upon the recommendation of the Planning and Zoning Commission, the subdivider will be required to dedicate and reserve an area for parks and open space, without cost to the City.
 - (1) The amount of land shall be determined by first calculating the entire size of the land area of the proposed development as shown on the preliminary plat or site plan and then to require dedication or reservation of five percent (5%) of this amount for parks and open space.
 - (2) This area shall be denoted on the final plat prior to approval of the final plat.

B. As determined by the City Council upon recommendation of the Planning and Zoning Commission, the subdivider shall, in lieu thereof, pay to the City a fee or combination of fee and land, equivalent to the value of the required dedication or reservation to be determined and used in the following manner:

- (1) The City Council, upon recommendation of the Planning and Zoning Commission, shall determine the size of the land area that it would have required to set aside for parks and open space (5% of the total land area).
 - (2) The cash value of said land shall be determined by taking the total purchase price or cost of all the land in the proposed subdivision and charge the owner the proportionate value of the land area so designated; based upon such purchase price or cost; provided such purchase price or cost is the current fair and reasonable value of the land. If such purchase price or cost does not reflect the current fair value of the land, the fair value of said land shall be determined by an impartial appraisal, and in such manner as may be designated by the City Council, cost for said appraisal to be shared equally between the subdivider and the City.
 - (3) All funds so levied, assessed, and collected by the City shall be deposited in a special fund to be known as the "Special Fund for the Acquisition and Development of Public Service Areas, Open Space and Recreational Facilities," and said funds so levied and collected shall be used for such purposes at such places and in such a manner as shall be approved, ordered and directed by a recreation committee appointed by the City Council. Any interest accumulated upon such funds shall be added to the "Special Fund" and be used only for acquisition and developments of open space and recreational facilities.
2. At the time of the preliminary plat approval, the City Council, upon recommendation by the Planning and Zoning Commission, shall determine whether to require a dedication of land within the subdivision or the payment of a fee, in lieu thereof, or a combination of both, from the subdivider, for parks and open space.
 3. Where a dedication is required; it shall be accomplished with a properly executed Warranty Deed dedicating the required land to the City without cost to the City. Where a fee, in lieu of dedication is required, the fee shall be deposited with the City Clerk. Whichever action is required, it shall be accomplished prior to the approval of the final plat.
 4. The determination by the City of whether to require dedication of land, or a fee, in lieu thereof, shall be based on the following:
 - A. Recreational element of the City's Community Development Plan.
 - B. Topographic and geologic conditions and access and location of land in subdivision available for dedication.
 - C. Size and shape of the subdivision and land available for dedication.
 - D. The relation of the subdivision to the Community Development Plan map, particularly as such plan map may show proposed public service areas, open space and recreational areas.

- E. The character and recreational needs of the neighborhood in which the subdivision is located.
- F. The unsuitability in the subdivision for open space and recreational purposes by reason of location, access, greater cost of development and maintenance.
- G. The possibility that land immediately adjoining the subdivision will serve in whole or in part the public service area, open space, and recreational needs of such subdivision.
- H. Any and all other information relevant to a proper determination.

The determination of the City Council as to whether land shall be dedicated or reserved or a fee shall be charged, or a combination thereof, shall be final and conclusive.

166.21 NONRESIDENTIAL SUBDIVISIONS. The following provisions shall apply to nonresidential subdivisions in addition to other provisions within this chapter:

1. General. If a proposed subdivision includes land that is used for commercial or industrial purpose, the layout of the subdivision with respect to such land may be subject to additional provisions as the City Council may require. A nonresidential subdivision shall be subject to all the requirements of these regulations, as well as such additional standards required by the City Council, and shall conform to the current Future Land Use Plan.
2. Standards. In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the subdivider shall demonstrate to the satisfaction of the City that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:
 - A. Proposed industrial or commercial parcels shall comply with the Zoning Ordinance.
 - B. Special requirements may be imposed by the City with respect to the installation of public utilities, including water, sewer, and storm water drainage.
 - C. Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.
 - D. Streets carrying nonresidential or domestic traffic, especially truck traffic, shall not be extended to the boundaries of adjacent existing or potential residential areas.

166.22 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS.

1. Pre-Application Conference. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a pre-application conference with the Mayor. The conference should be attended by the Mayor and such other City or Utility representatives as is deemed desirable; and by the owner and his engineer or planner, as deemed desirable. The purpose of such conference shall be to acquaint the City with the proposed subdivision, and to acquaint the subdivider with the requirements, procedures, and any special problems related to the proposed subdivision.
2. Concept Plan Required. For the pre-application requirements, the subdivider shall provide a plan or sketch showing the location of the subdivision, the general location of any proposed streets and other improvements, and the general layout and arrangement of intended land uses, in relation to the surrounding area. The intent of this concept plan is to inform development intentions to the City.
3. Presentation To Planning Commission. The subdivider shall present the concept plan to the Planning and Zoning Commission for review, prior to incurring significant costs preparing the preliminary or final plat.
4. Subdivision Classified. Any proposed subdivision shall be classified as a "minor subdivision" or a "major subdivision."
 - A. Minor Subdivision. Any subdivision that contains not more than three (3) lots fronting on an existing street or private drive and does not require State permit approval for construction of any public improvements and does not adversely affect the remainder of the parcel shall be classified as a minor plat.
 - B. Major Subdivision. Any subdivision that, in the opinion of the City Council, does not for any reason meet the definition of a minor subdivision shall be classified as a major subdivision.
5. Plats Required. The owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and separate requirements for a final plat. The owner and subdivider of a minor subdivision may elect to combine the requirements of the preliminary and final plats into a single document.

166.23 REQUIREMENTS OF THE PRELIMINARY PLAT. The subdivider shall prepare and file with the City Clerk twenty (20) copies of the preliminary plat, drawn at a scale of one inch equals one hundred feet (1" = 100') or larger. Sheet size shall not exceed twenty-four inches by thirty-six inches (24" x 36"). Where more than one sheet is required, the sheets shall show the number of the sheet and the total number of sheets in the plat, and match lines indicating where other sheets adjoin. The preliminary plat shall be clearly marked "Preliminary Plat" and shall show, or have attached thereto, the following:

1. Title, scale, north point and date.
2. Proposed name of the subdivision that shall not duplicate or resemble existing subdivision names in the county.
3. The name and address of the owner and the name, address and profession of the person preparing the plan.
4. A key map showing the general location of the proposed subdivision in relation to surrounding development.

5. The names and locations of adjacent subdivisions and the names of record owners and location of adjoining parcels of unplatted land. A list of all owners of record of property located within two hundred (200) feet of the subdivision boundary shall be attached.
6. The location of property lines, streets and alleys, easements, buildings, utilities, watercourses, tree masses, and other existing features affecting the plat.
7. Existing and proposed zoning of the proposed subdivision and adjoining property and identification of Fringe Area designations where relevant.
8. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten percent (10%) and at vertical intervals of not more than five (5) feet if the general slope is 10% or greater.
9. Identification of any flood plain areas and 100-year flood elevations, and the flood plain alphanumeric designation within the subdivision.
10. The legal description of the area being platted.
11. The boundary of the area being platted, shown as a dark line with the approximate length of boundary lines and the approximate location of the property in reference to known section lines.
12. The layout, numbers and approximate dimensions of proposed lots.
13. The location, width and dimensions of all streets and alleys proposed to be dedicated for public use.
14. The proposed names for all streets in the area being platted.
15. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, cable utilities, telephone utilities and other facilities, and their connections to existing utilities.
16. Proposed easements, showing locations, widths, purposes and limitations.
17. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes, or shown for such purpose in the current Future Land Use Plan or other adopted plans.
18. A general summary description of any protective covenants or private restrictions to be incorporated with the final plat.
19. Any other pertinent information, as necessary.
20. The fee, as required by this chapter.
21. Show and identify and all future planned development within the area (phase two, phase three, etc.) under the control / option / ownership / intention of the subdivider. Failure to completely identify all proposed development segments/phases/parts, etc in the subdivision area will be grounds for rejecting the plat.

166.24 PROCEDURES FOR REVIEW OF PRELIMINARY PLATS.

1. The City Clerk, upon receipt of twenty (20) copies of the preliminary plat, shall file one copy in the records of the City, shall retain one copy for public inspection, and shall forward the remaining copies of the plat as provided herein.
2. The City Clerk shall provide copies of the plat to the City Engineer, to the City Attorney, and such other persons as necessary to review the plat; and shall schedule the plat for consideration by the Planning and Zoning Commission.
3. The Planning and Zoning Commission shall examine the plat and the reports of the City Engineer and City Attorney, and such other information, as it deems necessary or desirable, to ascertain whether the plat conforms to the ordinances of the City, and conforms to the Community Development Plan and other duly adopted plans of the City. The Planning Commission shall, within forty-five (45) days of the filing of the plat with the City Clerk, forward a report and recommendation regarding the plat to the City Council. If such recommendation is to disapprove or modify the plat, the reasons therefore shall be set forth in writing in the report, and a copy of the report and recommendation shall be provided to the subdivider.
4. The City Council shall examine the plat, the reports of the City Engineer and City Attorney, the report of the Planning Commission, and such other information, as it deems necessary or desirable. Upon such examination, the City Council shall ascertain whether the plat conforms to the ordinances and standards of the City, conforms to the Community Development Plan and other duly adopted plans of the City, and will be conducive to the orderly growth and development of the City; in order to protect the public health, safety, and welfare. Following such examination, the City Council may approve, approve subject to conditions, or disapprove the plat. If the decision of the City Council is to disapprove the plat, or to approve the plat subject to conditions, the reasons therefore shall be set forth in writing in the official records of the City Council, and such decisions shall be provided to the subdivider. Action on the preliminary plat by the City Council shall be taken within sixty (60) days of the filing of the plat with the City Clerk.

166.25 DURATION OF APPROVAL OF PRELIMINARY PLAT. The approval of a preliminary plat by the City Council shall be valid for a period of one (1) year from the date of such approval; after which such approval shall be void, and the subdivider shall take no action requiring the precedent approval of a preliminary plat except upon application for and approval of an extension of such period of validity, by the City Council.

166.26 AUTHORIZATION TO INSTALL IMPROVEMENTS. The approval of the preliminary plat shall constitute authorization by the City Council for the preparation of construction plans, documents, permits for the installation of improvements as required by this chapter, and as shown in general conformity with the approved preliminary plat. No such improvements shall be constructed or installed until the detailed plans, specifications, etc. for the construction of such improvements have been submitted to, and approved in writing by, the City Engineer; and all necessary permits have been issued from the appropriate Local, State and Federal agencies (i.e., IDNR, IDOT, Johnson County, etc.); and all utility easements are obtained from any private entity. The City shall have a copy of all such documents in their possession prior to construction.

166.27 COMPLETION AND ACCEPTANCE OF IMPROVEMENTS. Before an applicant may begin construction, the City Council must consider and approve the final plat pursuant to the procedures set forth below.

1. The applicant shall first provide a check submittal to the City Engineer in accordance with approved City Design Standards. The City Engineer shall review the submittal for compliance with the requirements of a final plat and provide a report of compliance to the applicant or his or her named representative. The report will include comments, and may include conditions of approval. The applicant shall revise as appropriate and resubmit an approval submittal to the City Engineer in accordance with the development review schedule and as set forth in the City Design Standards. Following receipt of an approval submittal, the City Engineer shall recommend to the City Clerk that the final plat is ready to be placed on the City Council agenda for consideration and approval.

2. If approved by City Council, the applicant shall file the final plat with the Johnson County Recorder. City Council approval of final plats are good for one calendar year. Final plats must be recorded within one year of City Council approval, or prior to expiration of one year, the applicant must request a one-year extension. The City Engineer shall review and make a recommendation to City Council to approve, conditionally approve, or disapprove the requested extension. If City Council approval expires prior to recording, the final plat shall not be recorded until City Council acts on the applicant's requested extension.

3. Once recorded, the applicant shall transmit copies of the recorded final plat drawing to the County Assessor, City Clerk, and City Engineer. If copies of the recorded final plat drawing are not received by the City and County departments within 14 days of recording, the Zoning Administrator may withhold building permits or certificates of occupancy until the recorded documents are received.

4. After receiving City Council approval, the applicant shall agree to complete the improvements subject to performance and maintenance bonds and intended to be publically owned and maintained. Specifically, the applicant shall agree:

A. All improvements shall be constructed in accordance with the final plat as approved by City Council.

B. The improvements shall be completed within two (2) years of City Council approval of the final plat.

C. The number of building permits and certificates of occupancy to be issued prior to the completion of the improvements shall be specified in the agreement.

D. One or more of the following financial instruments shall be provided in a form acceptable to the City Council:

(1) A performance bond in the amount of 120 percent of the probable construction cost as approved by the City Engineer.

(2) A maintenance bond in the amount of 100 percent of the contract amount of the publically owned and maintained improvements.

Acceptable forms of surety shall include: irrevocable letter of credit, surety bond, or an escrow account. If the improvements (i) lie within or provide service to an area included in the final plat, or (ii) would be assessed to property included in the final plat pursuant

to City assessment policies, an assessment agreement is also an acceptable form of surety.

166.28 REQUIREMENTS OF THE FINAL PLAT. The subdivider shall, within one (1) year from the date of approval of the preliminary plat, unless such time period has been extended, prepare and file with the City Clerk, twenty (20) copies of the final plat and required attachments, as set forth in this chapter. Except for a final plat for a minor subdivision as set forth herein, no final plat shall be considered by the City Council until and unless a preliminary plat for the area included in the proposed final plat has been approved and has not expired and become void as set forth above. Copies of the final plat shall be distributed to the City Engineer and the City Attorney for their review, and upon completion of same, the City Engineer and City Attorney shall report the findings of their review to the City Council for its consideration regarding acceptance of the final plat by resolution. All resolutions approving final plats shall be recorded by the subdivider, with copies of the recorded documents to be provided to the City Attorney. The final plat shall be drawn at a scale of one-inch equals one hundred feet (1" = 100') or larger. Sheet size shall be no greater than eighteen inches by twenty-four inches (18" x 24") or smaller than eight and one-half inches by eleven inches (8-1/2" x 11") and shall be of a size acceptable to the County Recorder/Auditor. If more than one sheet is used, each sheet shall clearly show the number of the sheet, the total number of sheets included in the plat, and match lines indicating where other sheets adjoin. The final plat shall be clearly marked "Final Plat" and shall show the following:

1. The name of the subdivision.
2. Name and address of the owner and subdivider.
3. Scale, and a graphic bar scale, north arrow and date on each sheet.
4. All monuments to be of record, as required by Chapter 355, *Code of Iowa*.
5. Sufficient survey data to positively describe the bounds of every lot, block, street, easement, or other area shown on the plat, as well as the outer boundaries of the subdivided lands.
6. All distance, bearing, curve, and other survey data, as required by Chapter 355, *Code of Iowa*.
7. All adjoining properties shall be identified, and where such adjoining properties are a part of a recorded subdivision, the name of the subdivision shall be shown. If the subdivision platted is part of a previously recorded subdivision, sufficient ties shall be shown to controlling lines appearing on the earlier plat to permit an overlay to be made.
8. Street names and clear designation of any public alleys or private streets.
9. Block and lot numbers.
10. Accurate dimensions for any property to be dedicated or reserved for public use, and the purpose for which such property is dedicated or reserved for public use.
11. The purpose of any easement shown on the plat shall be confined to only those easements pertaining to public utilities including gas, power, telephone, cable television, water, sewer; easements for trails, bikeways, ingress and egress; and such drainage easements as are deemed necessary for the orderly development of the land encompassed within the plat.
12. All interior excepted parcels, clearly indicated and labeled, "not a part of this plat."

13. The subdivider shall not reserve a strip of land unless the land is of sufficient size and shape to be of some practical use or service as determined by the City Council.
14. The minimum unadjusted acceptable error of closure for all subdivision boundaries shall be 1:10,000 and shall be 1:15,000 for any individual lot.
15. A statement by a registered land surveyor that the plat was prepared by the surveyor or under the surveyor's direct personal supervision, signed and dated by the surveyor and bearing the surveyor's Iowa registration number or seal, and a sealed certification of the accuracy of the plat by the registered land surveyor who drew the plat.
16. Certification by each local public utility company that the locations of utility easements are properly placed for the installation of their utilities.
17. Certification of dedication of streets and other public property and perpetual easements for the installation, operation, and maintenance of utilities.
18. Contain a signature block for the signature of the Mayor and City Clerk certifying the City Council's approval of the plat with Resolution Number identification.
19. Show any provisions provided by the *Code of Iowa*.
20. Show lots within the subdivision that are within the one hundred year flood plain boundary.
21. The final plat should also have the following accompanying instruments:
 - A. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council.
 - B. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the *Code of Iowa* may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.
 - C. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.
 - D. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the *Code of Iowa*.

- E. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.
- F. A petition signed by the owner and his or her spouse petitioning the City Council to pave any streets abutting such subdivision which petition waives notice of time and place of hearing and waives statutory protections and limitations as to the cost and assessment of improvements.
- G. A certificate from the County Auditor that the name or title of the subdivision plat is approved by the County Auditor.
- H. The subdivider shall provide an electronic CAD disc reproductions of the plat to the City Engineer for use to update the City Map.
- I. The subdivider shall have completed all payments to the City for inspection costs incurred by the City Engineer to the date of final acceptance of the improvements.

166.29 WAIVERS AND EXCEPTIONS. The following shall apply to the granting of waivers or exceptions:

1. Hardships. Where the City Council finds that extraordinary hardships or particular difficulties regarding the physical development of land may result from strict compliance with these regulations, it may make waivers or exceptions to the regulations so that substantial justice may be done and the public interest secured, provided that such waiver or exceptions to these regulations meets the following criteria:
 - A. The granting of the waiver will not be detrimental to the public safety, health, or welfare or injurious to other property or improvements in the neighborhood in which the property is located.
 - B. The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought, and are not applicable, generally, to other property.
 - C. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of the regulations were carried out.
 - D. A variance may not be granted solely on the basis of the subdivider's desire to earn a greater profit on the property.
2. Conditions. In granting waivers and exceptions, the City Council may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of these regulations.
3. Procedure for Waiver or Exception. A petition for any such variation or exception shall be submitted in writing by the developer at the time when the preliminary plat is filed. The petition shall state fully the grounds for the application and all of the facts relied upon by the petitioner. The petition shall be referred to the Planning and Zoning Commission for its review and recommendation prior to submission of the issue to the City Council.

166.30 CHANGES AND AMENDMENTS. Any provisions of these regulations may be changed and amended from time to time by the City Council, provided that such changes and amendments shall not become effective until after a public hearing has been held, public notice

of which shall have been given as required by law. Such proposed amendments shall first be submitted to the Planning Commission for study and recommendation before the hearing date is scheduled. The Planning Commission shall forward its recommendation to the Council within thirty (30) days after the City Council requests the recommendation. The City Council shall then give notice of and hold a public hearing on the proposed amendment.

166.31 RECOUPMENT OF FEES.

1. Purpose. The purpose of this section is to regulate the use and development of land to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide public capital facilities in the City. This must be done in order to promote and protect the public health, safety, and welfare of the citizens and to expend the City's capital facilities to maintain current standards. This section also intends to assist in the implementation of the land use plan and capital improvements plan.
2. Definitions. For use in this section, the following terms are defined.
 - A. "Developer" means any person applying for preliminary plat, the construction of which will affect public capital facilities.
 - B. "Public capital facility" means all City facilities as set forth in the capital improvements plan for the City, any City enterprise or public improvement as set forth in Chapter 384.24(2) or 384.37(1) of the *Code of Iowa*, or as designated by resolution.
3. Imposition of Recoupment Fee. Any person who seeks approval of a preliminary plat in the City by applying for an approval of the plat by the City shall pay a recoupment fee in addition to the set preliminary plat rate schedule. The Council and the developer as a part of the subdivider's agreement shall fix the amount of the fee. The City shall consider and adopt any subdivider's agreement in conjunction with consideration and approval of the preliminary plat. The Council should consider the following in determining an equitable recoupment fee:
 - A. The cost of existing public capital facilities affected by the application;
 - B. The method of financing existing public capital facilities;
 - C. The extent to which the new development has already contributed to existing public capital facilities;
 - D. The extent of future contributions of the new development, i.e., user charges;
 - E. Whether the developer may be entitled to a credit against all or a portion of the fee imposed hereunder on account of the nature of a particular public facility and its use in common with others not a part of the new development;
 - F. Unusual costs associated with provided services to the new development.
4. Payment of Fee. The developer shall pay the recoupment fee prior to the issuance of a building permit.
5. Use of Funds. Funds collected hereunder shall be used solely for the purpose of acquiring, equipping, or making improvements to public capital facilities under the

jurisdiction and control of the City. Funds collected hereunder shall not be used for maintenance or operations. In the event that bonds or similar debt service instruments are issued for advance provision of capital facilities for which recoupment fees could have been expended, fees collected hereunder may be used to pay debt service on such bonds or debt instruments.

6. Credits. Instead of the payment of all or a portion of a fee hereunder, and at the sole discretion of the Council, a developer may dedicate land to the City. The amount and location of the land will be determined through negotiation. Merchantable title to such land must pass to the City prior to the issuance of a building permit.

7. Penalty Provision. The City may elect, at its sole discretion, to prosecution of any violation either as simple misdemeanor or as a municipal infraction.

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CHAPTER 167

AIRPORT ZONING REGULATIONS

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167.01 SHORT TITLE AND PURPOSE. These regulations shall be known and may be cited as the Airport Zoning Regulations. These regulations are adopted by the Council of the City of Cedar Rapids, Iowa, and the Council of the City of Swisher, Iowa, for the purpose of exercising to the fullest extent possible the power granted by Chapter 329 of the *Code of Iowa* pertaining to the restriction of airport hazards in the vicinity of airports and creating airport hazard zones.

167.02 DEFINITIONS. For the purpose of these regulations, certain terms and words are hereby defined.

1. “Airport” means The Eastern Iowa Airport as now exists or as may hereafter be added to or changed, located in Cedar Rapids, Iowa, and Linn County, Iowa, and owned by the City of Cedar Rapids and under the management and control of The Eastern Iowa Airport Commission by the provisions of Chapter 330 of the *Code of Iowa*. The airport includes the area of land designed and set aside for the landing and taking off of aircraft, and utilized or to be utilized in the interest of the public for such purposes. The word “airport” as used in these regulations also means and includes The Eastern Iowa Airport as shown in the Cedar Rapids Municipal Airport Master Plan adopted by the Cedar Rapids Airport Commission on November 25, 1996, which is now on file in the office of the Airport Director in the Administration Building at said Airport.
2. “Airport elevation” means the established elevation of the highest point on the usable landing area which is 863.9 feet above mean sea level.
3. “Airport hazard” means any structure or tree which obstructs the air space required for the flight of aircraft in landing or taking off at the Airport as herein defined, or which is otherwise hazardous to such landing or taking off of aircraft. It also includes any use of land within any zone established by these regulations in such a manner as to create electrical interference with radio communication between the Airport and aircraft or unreasonably interfere with electronic navigation aids or make it difficult for pilots to distinguish between airport lights and others; or as to result in glare in the eyes of pilots using the Airport or impair visibility in the vicinity of the Airport while engaged in landing or taking off at the Airport, or any other use within any zone established by these regulations which is otherwise hazardous to such landing or taking off of aircraft at the Airport.
4. “Airport hazard area” means an area of land or water within the territorial limits of The Eastern Iowa Airport Zoning Map, which is made a part of these regulations,

upon which an airport hazard might be established if not prevented, as provided by these regulations.

5. "Approach surface" means a surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 167.05 of this chapter. In plan the perimeter of the approach surface coincides with the perimeter of the approach zone.
6. "Approach, transitional, horizontal and conical zones" are set forth in Section 167.03 of this chapter.
7. "Board of Adjustment" means the Board consisting of five (5) members appointed as provided in Section 167.09.
8. "Conical surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20 to 1 for a horizontal distance of 4,000 feet.
9. "Hazard to air navigation" means an obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
10. "Height" means, for the purpose of determining the height limits in all zones set forth in this chapter and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
11. "Horizontal surface" means a horizontal plane 150 feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.
12. "Instrument runway" means a runway equipped or to be equipped with precision or non-precision electronic navigation aid or landing aid, or other air navigation facilities, suitable to permit the landing of aircraft by an instrument approach under restricted visibility conditions.
13. "Landing area" means the general area of the Airport used for the landing, take-off, or taxiing of aircraft, as indicated upon the Airport Zoning Map.
14. "Larger than utility runway" means a runway that is constructed for and intended to be used by propeller driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.
15. "Municipalities" means the City of Cedar Rapids, Iowa, and any city, town, or county within the territorial limits of The Eastern Iowa Airport Zoning Map hereinafter described, within which an airport hazard area might be established.
16. "Nonconforming use" means any pre-existing structure, object of natural growth, or use of land which is inconsistent with the provisions of this chapter or an amendment thereto.
17. "Non-instrument runway" means a runway other than an instrument runway.
18. "Non-precision instrument runway" means a runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

19. "Obstruction" means any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 167.05 of this chapter.
20. "Person" means an individual, firm, co-partnership, corporation, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, or other similar representative thereof.
21. "Precision instrument runway" means a runway having an existing instrument approach procedure utilizing an Instrument Landing System (ILS) or a Precision Approach Radar (PAR). It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
22. "Primary surface" means a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 167.03 of this chapter. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
23. "Runway" means a defined area on an airport prepared for landing and takeoff of aircraft along its length.
24. "Structure" means an object, including a mobile object, constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines, and the poles or other structures supporting the same.
25. "Transitional surfaces" means surfaces which extend outward at 90 degree angles to the runway centerline and the runway centerline extended at a slope of seven (7) feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.
26. "Tree" means any object of natural growth.
27. "Utility runway" means a runway that is constructed for and intended to be used by propeller driven aircraft of 12,500 pounds maximum gross weight and less.
28. "Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures.

167.03 AIRPORT ZONES. In order to carry out the provisions of this chapter, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces as they apply to The Eastern Iowa Airport. Such zones are shown on the Airport Zoning Map dated December 30, 1997, and prepared by the Howard R. Green Company. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Runway Larger Than Utility Visual Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide.

2. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Runway Larger Than Utility With A Visibility Minimum Greater Than $\frac{3}{4}$ Mile Non-precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
4. Runway Larger Than Utility With A Visibility Minimum As Low As $\frac{3}{4}$ Mile Non-precision Instrument Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
5. Precision Instrument Runway Approach Zone - The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
6. Transitional Zones - The transitional zones are the areas beneath the transitional surfaces.
7. Horizontal Zone - The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
8. Conical Zone - The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

167.04 AIRPORT ZONING MAP. There is hereby adopted and enacted an Airport Zoning District Map dated December 30, 1997, signed by the Mayor, and attested by the Clerk, which map is on file in the office of the City Clerk, and is hereby incorporated into and made a part of these regulations. The boundaries of the various zoning districts are herewith enacted and established as shown on said map subject to the provisions hereinafter set out relating to subsequent boundary changes and amendments. Said map is designed and intended as a method and means of setting forth the boundaries of the various airport zoning districts as the same are now shown on said map. All modifications, references, markings and other information shown thereon are hereby enacted and established as a part of the official district map for The Eastern Iowa Airport and are made a part of these regulations. As relates to Chapter 165, said district map shall not be set out in the Code of Ordinances and shall remain on file in the office of the City Clerk after adoption and publication and shall constitute a part of this chapter the same as if set out herein.

167.05 AIRPORT ZONE HEIGHT LIMITATIONS. Except as otherwise provided in this chapter, no structure or tree shall be erected, altered, allowed to grow or maintained in any zone created by this chapter to a height in excess of the height limit herein established for such zone. Such height limitations are hereby established for each of the zones in question as follows:

1. Runway Larger Than Utility Visual Approach Zone - Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Runway Larger Than Utility With A Visibility Minimum Greater Than $\frac{3}{4}$ Mile Non-precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
3. Runway Larger Than Utility With A Visibility Minimum As Low As $\frac{3}{4}$ Mile Non-precision Instrument Approach Zone - Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
4. Precision Instrument Runway Approach Zone - Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
5. Transitional Zones - Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 863 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90 degree angles to the extended runway centerline.
6. Horizontal Zone - Established at 150 feet above the airport elevation or at a height of 1,013.9 feet above mean sea level.
7. Conical Zone - Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.
8. Excepted Height Limitations – Nothing in this chapter shall be construed as prohibiting the construction or maintenance of any structure, or growth of any tree to a height up to 35 feet above the surface of the land.

167.06 USE RESTRICTIONS. Notwithstanding any other provisions of this chapter, no use may be made of land or water within any zone established by this chapter in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and others, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

167.07 NONCONFORMING USES.

1. Regulations Not Retroactive. The regulations prescribed herein shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date of these regulations, or otherwise interfere with the continuance of any nonconforming use. However, no pre-existing nonconforming structure, tree, or use shall be replaced, rebuilt, altered, allowed to grow higher, or be replanted so as to constitute a greater airport hazard than it was when these regulations were adopted. Nothing herein contained shall require any change in the construction, alteration, or intended use of any structure, the construction or alteration of which was begun prior to the effective date of these regulations and resolution is completed within one year thereafter.

2. Marking and Lighting. Notwithstanding the preceding provision of this section, the owner of any nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and light as shall be necessary to indicate to the operator of aircraft in the vicinity of the airport the presence of such airport hazards. Such markers and lights shall be installed, operated and maintained at the expense of The Eastern Iowa Airport Commission.

167.08 AIRPORT ZONING COMMISSION. An Airport Zoning Commission shall be provided as follows: The Zoning Commission shall consist of five (5) members, two (2) of whom shall be appointed by the City Council of Swisher, and two (2) of whom shall be selected by the City Council of Cedar Rapids, and one additional member to act as Chairperson, who shall be selected by a majority vote of the members appointed by the City of Swisher and the City of Cedar Rapids. The terms of such members shall be as provided by Section 329.9 of the *Code of Iowa*. Such Airport Zoning Commission shall follow the procedures as provided in Sections 414.4 and 414.6 of the *Code of Iowa*, as required by Section 329.9 of the *Code of Iowa*.

167.09 BOARD OF ADJUSTMENT. A Board of Adjustment is hereby appointed as follows: The Board shall consist of five (5) members, two (2) of whom shall be appointed by the City Council of the City of Swisher and two (2) of whom shall be appointed by the City Council of the City of Cedar Rapids, and one additional member to act as Chairperson, who shall be selected by a majority vote of the members appointed by the City of Swisher and the City of Cedar Rapids. The terms of such members shall be as provided in Section 329.12 of the *Code of Iowa*. Each such Board shall have the powers and duties, and shall follow the procedures, provided by Sections 414.9 to 414.19 of the *Code of Iowa*.

167.10 VARIANCES. Any person desiring to erect or increase the height of any structure, or to permit the growth of any tree, or otherwise use the person's property in a manner which would constitute a violation of these regulations may apply to the Board of Adjustment having jurisdiction of the area where such violation would occur for a variance from these regulations. Such variances shall be allowed where a literal application or enforcement of these regulations would result in practical difficulty or unnecessary hardship, and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of these regulations and of Chapter 329 of the *Code of Iowa*; provided, however, any such variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of Chapter 329 of the *Code of Iowa*, including but not limited to the following:

1. The reservation of the right of the City of Cedar Rapids, and The Eastern Iowa Airport Commission, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

2. To require the person requesting the variance at said person's own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

Any appeal from the decision of the Board of Adjustment shall be in accordance with the provisions of Section 414.15 *et seq.* of the *Code of Iowa*.

167.11 FINDING CONCERNING PUBLIC INTEREST. The City Council of Cedar Rapids and City Council of Swisher specifically find that an airport hazard, as herein defined, within its territorial limits would endanger the lives and property of users of The Eastern Iowa Airport and all occupants of land, and other persons in the vicinity, and would also tend to destroy or impair the utility of the airport and the public investment therein; accordingly each municipality does hereby declare:

1. The creation or establishment of an airport hazard, as herein defined, within its territorial limits is a public nuisance and an injury to the community served by The Eastern Iowa Airport.
2. It is necessary in the interest of the public health, safety and general welfare that the creation or establishment of airport hazards, as herein defined, be prevented.
3. This should be accomplished to the extent legally possible by proper exercise of the police power.
4. Each municipality expressly declares that it shall not become liable for the expenditure of its public funds unless such expenditure shall be approved in advance by its governing body.

167.12 ADMINISTRATION AND ENFORCEMENT. The administration and enforcement of these zoning regulations shall be performed by The Eastern Iowa Airport Commission acting through the Airport Director, or through such other persons or representatives as The Eastern Iowa Airport Commission may from time to time by resolution direct, but, as provided by Section 329.13 of the *Code of Iowa*, such duties of enforcement and administration may not be delegated to any person who is a member of any Board of Adjustment.

167.13 EQUITABLE REMEDIES. The City of Cedar Rapids and The Eastern Iowa Airport Commission may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards pertaining to The Eastern Iowa Airport in violation of these regulations for any area, whether within or without the territorial limits of the City of Cedar Rapids, as authorized by Section 329.5 of the *Code of Iowa*.

167.14 CONFLICTING REGULATIONS. In the event of any conflict between these Airport Zoning Regulations and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, the more stringent limitation or requirements shall govern and prevail.

167.15 PROHIBITED ACTS. It is unlawful for any person to do any of the acts hereinafter stated unless a variance from the provisions of these regulations shall have been previously allowed by the Board of Adjustment.

1. No person shall erect or increase the height of any structure, or permit the growth of any tree, to a height in excess of that provided by Section 167.05 of these regulations for the zone or area where such act occurs.

2. No person shall hereafter place or cause to be placed, above ground, transmission lines or poles or other structures supporting the same within 200 feet of the outer boundary of the airport as said boundary is shown on the Airport Zoning Map.
3. No person shall otherwise use such person's property within a zone established by these regulations in such a manner as to create an airport hazard as defined herein.

167.16 PENALTIES. Any person violating any of the provisions of this chapter or any regulation, order, or ruling promulgated hereunder shall, upon conviction, be subject to the penalties set forth in Section 1.14 of the Swisher Code of Ordinances or a violation of any of the provisions of this chapter shall constitute a municipal infraction and may be enforced under Chapter 3 of the Swisher Code of Ordinances. Each day a violation occurs or continues to exist shall constitute a separate offense.

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CHAPTER 168

SMALL WIND ENERGY CONVERSION SYSTEMS

168.01 Intent

168.02 Definitions

168.03 Permit Required

168.04 Technical Standards

168.05 Public Notification

168.01 INTENT. The intent of this chapter is to balance the need for clean, renewable energy resources as a necessity to protect the public health and safety of the community. The City believes these regulations are necessary to ensure the Small Wind Energy Conversion Systems are appropriately designed, sited, and installed.

168.02 DEFINITIONS.

1. Height, Total System. The height above grade of the system, including the generating unit and the highest vertical extension of any blades or rotors.
2. Shadow Flicker. Alternating changes in light intensity caused by the moving blade of a wind power generator casting shadows on the ground and stationary objects such as the window of a dwelling.
3. Small Wind Energy Conversion System (SWECS). A wind energy conversion system which has a nameplate rated capacity of up to twenty (20) kilowatts for residential uses and up to one hundred (100) kilowatts for commercial and industrial uses and which is incidental and subordinate to a principal use on the same parcel. A system is considered a SWECS 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.
4. Small Wind Energy Conversion System, Free Standing. A SWECS 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.
5. Small Wind Energy Conversion System, Horizontal Axis. A small wind energy conversion system that has blades which rotate through a horizontal plane.
6. Small Wind Energy Conversion System, Vertical Axis. A small wind energy conversion system that has blades which rotate through a vertical plane.
7. Tower. The vertical component of a wind energy conversion system that elevates the wind turbine generator and attached blades above the ground.
8. Wind Turbine Generator. The component of a wind energy conversion system that transforms mechanical energy from the wind into electrical energy.

168.03 PERMIT REQUIRED. It shall be unlawful to construct, erect, install or locate in a SWECS within the City unless a permit has been obtained from the City Council. The permit may be revoked by resolution by the City Council at any time if the purpose does not comply

with the rules or conditions set forth in this chapter or conditions imposed by the City Council. 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.

168.04 TECHNICAL REQUIREMENTS.

1. Compliance with Federal Aviation Administration Regulations (FAA). No small wind energy system shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.
2. Safety. Any climbing foot pegs or rungs below 15 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood may be fastened to the bottom tower section such that it cannot readily be climbed. Tower base shall be fenced at least ten feet (10') with razor wire and locked gates.
3. Sound. Sound produced by the small wind energy system under normal operating conditions, as measured at the property line, shall: i) not produce sound at a level that would constitute a nuisance; ii) comply with any local ordinance regulating the volume of sound as a nuisance; if applicable. Sound levels, however, may be exceeded during short-term events out of anyone's control, such as utility outages and/or severe wind storms.
4. Compliance with National Electric Code. Building permit applications for small wind energy systems shall be accompanied by a line drawing of the electrical components, as supplied by the manufacturer, in sufficient detail to allow for a determination that the design and manner of installation conforms to the State National Electric Code.
5. Utility Notification. No small wind energy system shall be installed until evidence has been given that the utility company has authorized interconnection of the small wind energy system to its electric distribution or transmission, under an agreement approved by and subject to regulation adopted by the Iowa Utilities Board. Properties not connected to the public utility system shall be exempt from this requirement.
6. Insurance. A person seeking a building permit to erect a small wind energy system shall provide evidence, in the form of a certificate of insurance satisfactory to the City showing general liability insurance coverage for the installation and operation of the system under a standard homeowner's or standard business owner's insurance policy, separate and distinct from any insurance requirements of a public utility.
7. Abandonment. If a wind turbine is inoperable for six consecutive months, the owner shall be notified that they must, within six months of receiving the notice, restore the small wind energy system to operating condition. If the owner fails to restore the system to operating condition within the six month time frame, it shall be considered abandoned and the owner shall be required, at owner's expense, to remove the small wind energy system. A small wind energy system that has been abandoned may be abated as a public nuisance.
8. Signage. No signs, other than appropriate warning signs, or standard manufacturer's or installer's identification signage, shall be displayed on a wind generator, tower, building, or other structure associated with a small wind energy system, subject to local sign regulation, if any.

9. Lighting. No illumination of the turbine or tower shall be allowed unless required by the FAA or unless allowed by applicable ordinance.
10. Color. Freestanding SWECS shall be neutral color such as white, sky blue or light gray. Other colors may be allowed at the discretion of the City Council. The surface shall be non-reflective.
11. Setbacks. 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.
12. Maximum Height. Height shall be measured from the ground to the top of the tower, including the wind turbine generator and blades.
 - A. For lots of two (2) acres, the maximum height shall be 65 feet.
 - B. For lots of three (3) to seven (7) acres, the maximum height shall be 80 feet.
 - C. For lots of more than seven (7) acres the maximum height shall be 100 feet.
13. Minimum Lot Size. The minimum lot size for a freestanding SWECS shall be two (2) acres.
14. 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.
15. Location.
 - A. No part of a SWECS shall be located within or over drainage, utility or other established easements.
 - B. A freestanding SWECS shall be located entirely in the rear yard.
 - C. A SWECS shall be located in compliance with the guidelines of applicable Federal Aviation Administration (FAA) regulations as amended from time to time.
 - D. No SWECS shall be constructed so that any part thereof can extend within 20 feet laterally of an overhead electrical power line (including secondary electrical service lines or service drops). The setback from underground electric distribution lines shall be at least twenty (20) feet.
16. Shadow Flicker. A shadow flicker model demonstrates that shadow flicker shall not fall on, or in, any existing residential structure. Shadow flicker expected to fall on a roadway or a portion of a residentially zoned parcel may be acceptable if the flicker does not exceed thirty (30) hours per year, and the flicker will fall more than one hundred (100) feet from an existing residence; or the traffic volumes are less than five hundred (500) vehicles on the roadway. The shadow flicker model shall:
 - A. Map and describe within a one thousand foot (1,000') radius of the proposed dispersed wind energy system, the topography, existing residences and location of their windows, locations of other structures, wind speeds and directions, existing vegetation and roadways. The model shall represent the

most probable scenarios of wind constancy, sunshine constancy, and wind directions and speed.

B. Calculate the locations of shadow flicker caused by the proposed project and the expected durations of the flicker at these locations, calculate the total number of hours per year of flicker at all locations.

C. Identify problem areas where shadow flicker will interfere with existing or future residences and roadways and describe proposed mitigation measures, including, but not limited to, a change in siting of the wind energy conversion system, a change in the operation of the wind energy conversion system, or grading or landscaping mitigation measures.

17. Automatic Overspeed Controls. All wind energy conversion systems shall be equipped with manual and automatic overspeed controls to limit the blade rotation speed to within the design limits of the wind energy conversion system.

18. Roof Mounted Systems. Roof mounted wind energy conversion systems are prohibited.

19. Feasibility of Site. Evidence from a qualified professional that the site is feasible for a wind energy conversion system, or that covenants, easements and other assurances to document sufficient wind to operate the wind energy conversion system have been obtained.

168.05 PUBLIC NOTIFICATION. Prior to a permit being issued, notice shall be sent not less than seven (7) days and not more than twenty (20) days to all property owners within six hundred (600) feet of the proposed wind energy conversion system. No permit shall be granted when sixty (60) percent of the resident real estate owners in said district within six hundred (600) feet of the proposed building and occupancy object thereto, except by a three-fourths ($\frac{3}{4}$) vote of all the members of the Council.

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CHAPTER 169

WORK WITHIN CITY RIGHT-OF-WAY AND EASEMENTS

169.01 Short Title and Purpose
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169.01 SHORT TITLE AND PURPOSE. This chapter shall be known as the “Work within City Right-of-Way and Easements Ordinance” of the City of Swisher, Iowa. The purpose of this chapter is the regulation of the use of City right-of-way and easements in the interest of public safety and convenience, and the operation and protection of public infrastructure.

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

1. “Applicant” means any owner or duly authorized agent of such owner, who has submitted an application for a permit.
2. “Facility(ies)” means, but is not limited to, any and all cables, cabinets, ducts, conduits, converters, equipment, drains, handholes, manholes, pipes, pipelines, splice boxes, surface location markers, poles, transformers, tracks, tunnels, utilities, vaults, and other appurtenances or tangible things owned, leased, operated, or licensed by an owner or person.
3. “Owner” means the person owning the fee title to the property abutting any work and includes any contract purchaser for the purposes of notification herein. For all other purposes, “Owner” includes the lessee, if any.
4. “Permit” means a permit to perform work within City right-of-way and easements.
5. “Permittee” means the applicant to whom a permit has been granted in accordance with this chapter.
6. “Right-of-Way and Easements” means the area across, along, beneath, in, on, over, under, upon, and within the dedicated public alleys, boulevards, courts, highways, lanes, parkways, roads, sidewalks, spaces, streets, other public thoroughfare or ways, and easements within the City, as they now exist or hereafter will exist and which are or will be under the permitting jurisdiction of the City.

169.03 PERMIT REQUIRED. It is unlawful for any person to engage in work within City right-of-way or easements without first obtaining a written permit from the City. Work within City right-of-way and easements includes, but is not limited to, the following:

1. Uncover, make connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof.

2. Install, uncover, make connection with, use, alter or disturb any water main or appurtenance thereof.
3. Install, service, repair or modify any private utility facility(ies).
4. Dig, excavate or in any manner disturb any street, parking or alley.
5. Remove, reconstruct or install a sidewalk, trail or path.
6. Remove, reconstruct or install a driveway.
7. Remove or plant trees.

169.04 APPLICATION. Application for a work within City right-of-way and easements permit shall be made in writing to the Clerk on a form furnished by the City. The application shall include:

1. Name, Address and Telephone Number. The applicant's full name, address and telephone number, and if the applicant is not the owner, the application shall also include the full name, address and telephone number of the owner.
2. Location. An exact description of the property by lot and/or street addresses, in front of or along which the work is to occur.
3. Purpose. A statement of purpose, for whom and by whom the work is to occur.
4. Primary Contact. The full name, address and telephone number of the person designated as the primary contact for purposes of notification regarding the work.
5. Commencement of Work. The proposed start date of the work.
6. Completion of Work. The estimated completion date of the work.
7. Terms and Conditions. A written acknowledgement that the applicant and owner are required to comply with all terms and conditions of this chapter, the City Codes of Ordinances, the City Design Standards, and all other laws and regulations of local, State and federal agencies.

169.05 EXEMPTION. No permit is required to begin work in cases of emergencies, such as the breakage of water, gas or sewer lines, or electrical cables. However, a permit shall be obtained on the first working day after the emergency.

169.06 BOND REQUIRED. The applicant, if the not the owner, shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) or the estimated total cost of the work covered by the permit as determined by the City, whichever is greater. The bond shall be issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. The bond shall provide coverage on a calendar year basis except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration.

169.07 INSURANCE REQUIRED. Each applicant, if not the owner, shall also file a certificate of public liability insurance with the Clerk. The policy shall indemnify the City from all liability for damages arising from negligence in doing, protecting or completing the work. Said insurance policy shall include the City as an additional named insured and provide

coverage on a calendar year basis. The liability insurance policy shall have the following minimum requirements:

- | | | |
|----|--|--|
| 1. | A. Public Liability, Bodily Injury, or Death | \$1,000,000 each occurrence
\$1,000,000 aggregate |
| 1. | | |
| 2. | B. Property Damage | \$1,000,000 each occurrence
\$1,000,000 aggregate |

169.08 PERMIT FEE. The permit fee shall be in an amount established by resolution of the City Council. Permit fees will be waived for work associated with projects for the City, or work associated with a new house or business for which a building permit has been obtained. A permit fee shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each instance of work within City right-of-way or easements.

169.09 PERMIT ISSUED. Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

169.10 INSPECTION. All work shall be subject to inspection by the City. The inspections required include, but are not limited to, the following:

1. Any connections with or opening into, use, alteration or disturbance to any public sewer or appurtenance thereof, prior to backfilling the excavation.
2. Any connections with or opening into, use, alteration or disturbance to any public water main or appurtenance thereof, prior to backfilling the excavation.
3. Backfilling of excavations.
4. Subgrade, subbase (if required) and forming for the reconstruction or installation of sidewalks, trails, paths, driveways, alleys and roadways, prior to the construction of finished concrete, asphalt or granular surfacing.
5. Final restoration of public property.

The permittee shall contact the City at least twenty-four (24) hours in advance to schedule an inspection. All costs and expenses for any testing services the City may require shall be borne by the permittee. Corrections may be ordered if the work does not meet requirements. When the work does not meet requirements, the City shall indicate this on the permit.

(Ord. 269 – Jun. 18 Supp.)

169.11 TIME LIMIT. Should any work be discontinued or unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work was improperly done, the City has the right to finish or correct the work and charge any expenses therefor to the permittee. Should the permittee make sufficient showing that due to conditions beyond their control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any permit may be revoked at any time for a violation of this chapter.

169.12 PUBLIC CONVENIENCE. Streets, alleys and sidewalk shall be opened in a manner which will cause the least inconvenience to the public.

169.13 TRAFFIC CONTROL. Traffic control shall be in accordance with the Manual on Uniform Traffic Control Devices for Street and Highways (MUTCD). The City may require the applicant to submit a separate traffic control plan for approval.

169.14 RESTORATION OF PUBLIC PROPERTY. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permittee.

169.15 RESPONSIBILITY FOR COSTS. All costs and expenses incident to the work shall be borne by the permittee. The permittee shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such work.

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