

# CITY OF ODEBOLT

## 2015 CODE OF ORDINANCES

ADOPTED BY THE CITY COUNCIL  
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# TABLE OF CONTENTS

<b>TITLE I GENERAL PROVISIONS.....</b>	<b>1</b>
CHAPTER 1 GENERAL PROVISIONS.....	1
CHAPTER 2 RIGHT OF ENTRY.....	5
CHAPTER 3 PENALTY.....	7
CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL.....	11
<b>TITLE II POLICY AND ADMINISTRATION.....</b>	<b>15</b>
CHAPTER 1 CITY CHARTER.....	15
CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS.....	17
CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS.....	19
CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS.....	29
CHAPTER 5 CITY FINANCE.....	31
CHAPTER 6 CITY COUNCIL.....	35
<b>TITLE III COMMUNITY PROTECTION.....</b>	<b>39</b>
CHAPTER 1 OFFENSES.....	39
CHAPTER 2 NUISANCES.....	45
CHAPTER 3 TRAFFIC CODE.....	51
CHAPTER 4 RAILROAD REGULATION.....	75
CHAPTER 5 FIRE PROTECTION.....	77
CHAPTER 6 CURFEW FOR MINORS.....	79
CHAPTER 7 REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS.....	83
CHAPTER 8 RESERVED.....	87
CHAPTER 9 ALCOHOLIC BEVERAGES.....	89
CHAPTER 10 JUNK AND ABANDONED VEHICLES.....	91
CHAPTER 11 FIRE ZONES.....	97
<b>TITLE IV MENTAL AND PHYSICAL HEALTH.....</b>	<b>99</b>
CHAPTER 1 ANIMAL CONTROL.....	99
<b>TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE.....</b>	<b>105</b>
CHAPTER 1 LIBRARY SERVICES.....	105
CHAPTER 2 PARKS AND RECREATION AND SWIMMING POOL BOARD.....	109
<b>TITLE VI PHYSICAL ENVIRONMENT.....</b>	<b>111</b>
CHAPTER 1 MOBILE HOME REGULATION.....	111
CHAPTER 2 UTILITIES - SANITARY SYSTEM.....	115
CHAPTER 3 UTILITIES - WATER SYSTEM.....	127
CHAPTER 4 UTILITIES - REFUSE CONTROL AND COLLECTION.....	131

CHAPTER 5 UTILITIES – STORM WATER SYSTEM.....	139
CHAPTER 6 UTILITIES - BILLING CHARGES.....	141
CHAPTER 7 SUBDIVISION REGULATIONS.....	145
CHAPTER 8 SIDEWALK REGULATIONS.....	161
CHAPTER 9 BUILDING AND LAND USE REGULATIONS.....	167
CHAPTER 10 DANGEROUS BUILDINGS.....	175
CHAPTER 11 FLOODPLAIN MANAGEMENT.....	179
CHAPTER 12 TREE MANAGEMENT.....	193
CHAPTER 13 STREET CUTS AND EXCAVATIONS.....	195
CHAPTER 14 PUBLIC PROPERTY AND RIGHT OF WAY.....	197
CHAPTER 15 VACATION AND DISPOSAL.....	199
CHAPTER 16 STREET GRADES.....	203
CHAPTER 17 NAMING OF STREETS.....	205
<b>TITLE VII SPECIAL ORDINANCES.....</b>	<b>207</b>
CHAPTER 1 NATURAL GAS FRANCHISE.....	207
CHAPTER 2 ELECTRIC FRANCHISE.....	211
CHAPTER 3 TELEPHONE FRANCHISE.....	215
CHAPTER 4 CABLE TV FRANCHISE AND REGULATIONS.....	217
CHAPTER 5 ODEBOLT URBAN RENEWAL AREA.....	225

## TITLE I GENERAL PROVISIONS

### CHAPTER 1 GENERAL PROVISIONS

1-1-1	Definitions	1-1-6	Severability
1-1-2	Grammatical Interpretation	1-1-7	Catchlines, Titles, Headings and Notes
1-1-3	Prohibited Acts Include Causing, Permitting	1-1-8	Amendments to Code, Effect of New Ordinances, Amendatory Language
1-1-4	Construction		
1-1-5	Amendment		

1-1-1 DEFINITIONS. The following words and phrases whenever used in the Ordinances of the City, shall be construed as defined in this section unless, from the context, a different meaning is intended or unless different meaning is specifically defined and more particularly directed to the use of such words or phrases:

1. "Building" means any man-made structure permanently affixed to the ground.
2. "City" means the City of Odebolt, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;
3. "Clerk" means Clerk-Treasurer.
4. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;
5. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;
6. "County" means the County of Sac, Iowa;
7. "Delegation of Authority" means whenever a provision appears requiring an officer of the City to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.
8. "Fiscal Year" means July 1 to June 30.
9. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;
10. "May" confers a power;
11. "Month" means a calendar month;

12. "Must" states a requirement;
13. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";
14. "Or" may be read "and" and "and" may be read "or" if the sense requires it;
15. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;
16. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;
17. "Person" means natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;
18. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
19. "Preceding" and "following" mean next before and next after, respectively;
20. "Property" includes real and personal property;
21. "Real property" includes any interest in land;
22. "Shall" imposes a duty;
23. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
24. "State" means the State of Iowa;
25. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;
26. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
27. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;
28. "Writing" and "Written" include printed, typewritten, or electronically transmitted such as facsimile or electronic mail;
29. "Year" means a calendar year;

30. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;

31. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.

1-1-2 GRAMMATICAL INTERPRETATION. The following grammatical rules shall apply in the Ordinances of the City;

1. Gender. Any gender includes the other gender;
2. Singular and Plural. The singular number includes the plural and the plural includes the singular;
3. Tenses. Words used in the present tense include the past and the future tenses and vice versa;
4. Use of Words and Phrases. Words and phrases not specifically defined shall be construed according to the content and approved usage of the language.

1-1-3 PROHIBITED ACTS INCLUDE CAUSING, PERMITTING. Whenever in this Code any act or omission is made unlawful, it includes causing, allowing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission. A principal is responsible for the unauthorized acts or omissions committed by an agent or employee which have been authorized by the principal.

1-1-4 CONSTRUCTION. The provisions of this Code are to be construed with a view to affect its objects and to promote justice.

1-1-5 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Odebolt Municipal Code of 2015 constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.  
(Code of Iowa, Sec. 380.2)

1-1-6 SEVERABILITY. If any section, provision or part of the City Code or any subsequent ordinance is adjudged invalid or unconstitutional, such adjudication will not affect the validity of the City Code as a whole or any section provision, or part thereof not adjudged invalid or unconstitutional.

1-1-7 CATCHLINES, TITLES, HEADINGS AND NOTES. The catchlines of the several sections of this City Code printed in boldface type as well as the titles, headings, chapter heads, section and subsection heads or titles, editor's notes, cross-references and State law references, unless set out in the body of the section itself, contained in this City Code, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

1-1-8 AMENDMENTS TO CITY CODE, EFFECT OF NEW ORDINANCES,  
AMENDATORY LANGUAGE.

1. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this City Code may be numbered in accordance with the numbering system of this City Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, section, or subsection or any portion thereof, such repealed portions may be excluded from this City Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this City Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances.
2. Amendments to any of the provisions of this City Code may be made by amending such provisions by specific reference to the section or subsection number of this City Code in substantially the following language: “That section \_\_\_\_\_ of the Code of Ordinances, City of Odebolt, Iowa is hereby amended to read as follows:...” The new provisions shall then be set out in full as desired.
3. In the event a new section not heretofore existing in this City Code is to be added, the following language may be used: “That the Code of ordinances, City of Odebolt, Iowa, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: ...” The new section shall then be set out in full as desired.

## TITLE I GENERAL PROVISIONS

### CHAPTER 2 RIGHT OF ENTRY

#### 1-2-1 Right of Entry

1-2-1 RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any Ordinance, or whenever there is reasonable cause to believe that there exists an Ordinance violation in any building or upon any premises within the jurisdiction of the City, any authorized official of the City, may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same and to perform any duty imposed upon such official by Ordinance; provided that, except in emergency situations, such official shall first give the owner and/or occupant, if they can be located after reasonable effort, twenty-four hour written notice of the authorized official's intention to inspect. In the event the owner and/or occupant refuses entry, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry.





## TITLE I GENERAL PROVISIONS

### CHAPTER 3 PENALTY

- 1-3-1 General Penalty
- 1-3-2 Civil Penalty -Municipal  
Infraction

- 1-3-3 Scheduled Fines

1-3-1 GENERAL PENALTY. The doing of any act prohibited or declared to be unlawful, an offense, or a misdemeanor by the City Code or any Ordinance or Code herein adopted by reference, or the omission or failure to perform any act or duty required by this City Code or any Ordinance or Code or any Ordinance or Code herein adopted by reference is, unless another penalty is specified, punishable in accordance with Iowa Code Section 903.1(1)(a).

Code of Iowa, Sec. 903.1(1)(a)  
(Amended in 2008)  
(Amended in 2009)  
(Amended in 2010)

1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.

(Code of Iowa, Sec. 364.22)

1. Definitions.

a. Municipal Infraction. Except 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 Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Odebolt, or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances City of Odebolt, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.

b. Officer. The term "officer" shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Odebolt.

c. Repeat offense. The term "repeat offense" shall mean a recurring violation of the same section of the Code of Ordinances.

2. Violations, Penalties, and Alternative Relief.

a. A municipal infraction is punishable by a civil penalty as provided in the following schedule, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in this Code.

## Schedule of Civil Penalties

First offense: Not more than seven hundred fifty dollars (\$750.00).

Repeat Offense: Not more than one thousand dollars (\$1,000.00)

b. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.

c. 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.

### 3. Civil Citations

a. Any officer authorized by the City to enforce the Code of Ordinances may issue a civil citation to a person who commits a municipal infraction.

b. The citation may be served by personal service, substituted service, or by certified mail, return receipt requested, or by publication as provided in the Iowa Rules of Civil Procedure.

c. The original of the citation shall be sent to the Clerk of the district court. If the infraction involves real property a copy of the citation shall be filed with the County Treasurer.

d. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

- (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 property, if applicable.

1-3-3 SCHEDULED FINES. The scheduled fine for a violation of any provision of the City Code shall be in accordance with State Code Chapter 805 unless another scheduled amount is provided in the City Code or Iowa Code.



## TITLE I GENERAL PROVISIONS

### CHAPTER 4 PROCEDURE FOR HEARINGS BY THE CITY COUNCIL

- |                                 |                                   |
|---------------------------------|-----------------------------------|
| 1-4-1 Purpose and Intent        | 1-4-4 Subpoenas                   |
| 1-4-2 General                   | 1-4-5 Conduct of Hearing          |
| 1-4-3 Form of Notice of Hearing | 1-4-6 Method and Form of Decision |

#### 1-4-1 PURPOSE AND INTENT.

1. It is the purpose of this article to establish an orderly, efficient, and expeditious process for evidentiary hearings before the City Council.
2. The provisions of this article shall apply to a proceeding required by constitution, statute or Ordinance to be determined by the City Council after an opportunity for an evidentiary hearing.

#### 1-4-2 GENERAL.

1. Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the City Council.
2. Reporting. The proceedings at the hearing may also be reported by a court reporter at the expense of any party.
3. Continuances. The City Council may grant continuances for good cause shown.
4. Oaths, Certification. The City Council or any member thereof has the power to administer oaths and affirmations.
5. Reasonable dispatch. The City Council and its representatives shall proceed with reasonable dispatch to conclude any matter before it. Due regard shall be shown for the convenience and necessity of any parties or their representatives.

#### 1-4-3 FORM OF NOTICE OF HEARING.

The notice to parties shall be substantially in the following form, but may include other information:

"You are hereby notified that an evidentiary hearing will be held before the Odebolt City Council at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour \_\_\_\_\_, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the City Clerk."

1-4-4 SUBPOENAS. Filing of affidavit. The City Council may issue a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the City Council or upon the written demand of any party. The issuance and service of such subpoena shall be obtained upon the filing of an affidavit therefor which states the name and address of the proposed witness; specifies the exact things sought to be produced and the materiality thereof in detail to the issues involved; and states that the witness has the desired things in the witness's possession or under the witness's control. A subpoena need not be issued when the affidavit is defective in any particular.

#### 1-4-5 CONDUCT OF HEARING.

1. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
2. Oral evidence. Oral evidence shall be taken only on oath or affirmation.
3. Hearsay evidence. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions in courts of competent jurisdiction in this state.
4. Admissibility of evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.
5. Exclusion of evidence. Irrelevant and unduly repetitious evidence shall be excluded.
6. Rights of parties. Each party shall have these rights, among others:
  - a. To call and examine witnesses on any matter relevant to the issues of the hearing;
  - b. To introduce documentary and physical evidence;
  - c. To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;
  - d. To impeach any witness regardless of which party first called the witness to testify;
  - e. To rebut the evidence against the party; and
  - f. To self-representation or to be represented by anyone of the party's choice who is lawfully permitted to do so.
7. Official notice.

- a. What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the City or its departments and Ordinances of the City.
  - b. Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.
  - c. Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the City Council.
8. Inspection of the premises. The City Council may inspect any building or premises involved in the appeal during the course of the hearing, provided that:
- a. Notice of such inspection shall be given to the parties before the inspection is made;
  - b. The parties are given an opportunity to be present during the inspection; and
  - c. The City Council shall state for the record, upon completion of the inspection, the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the City Council.

#### 1-4-6 METHOD AND FORM OF DECISION.

1. Hearings before the City Council where a contested case is heard before the City Council, no member thereof who did not hear the evidence or alternatively has not read or listened to the entire record of the proceedings shall vote on or take part in the decision. The City Council may designate a member or members to preside over the receipt of evidence. Such member or members shall prepare findings of fact for the City Council.
2. Form of decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the parties personally or sent to them by certified mail, postage prepaid, return receipt requested.
3. Effective date of decision. The effective date of the decision shall be stated therein.





## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 1 CITY CHARTER

2-1-1 Charter	2-1-4 Number and Term of City Council
2-1-2 Form of Government	2-1-5 Term of Mayor
2-1-3 Powers and Duties	2-1-6 Copies on File

2-1-1 CHARTER. This chapter may be cited as the Charter of the City of Odebolt, Iowa.

2-1-2 FORM OF GOVERNMENT. The form of government of the City of Odebolt, Iowa, is the Mayor-Council form of government.

(Code of Iowa, Sec. 372.4)

2-1-3 POWERS AND DUTIES. The City 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 of Odebolt, Iowa.

2-1-4 NUMBER AND TERM OF CITY COUNCIL. The City Council consists of five City Council members elected at large, elected for overlapping terms of four years. The Mayor and two (2) Council members shall stand for election and the other three (3) Council members shall stand for election two years later, so all Council members and the Mayor serve overlapping terms of four (4) years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-5 TERM OF MAYOR. The Mayor is elected for a term of four years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

2-1-6 COPIES ON FILE. The City Clerk shall keep an official copy of the charter on file with the official records of the City Clerk, shall immediately file a copy with the Secretary of State of Iowa, and shall keep copies of the charter available at the City Clerk's office for public inspection.

(Code of Iowa, Sec. 372.1)



## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS

2-2-1	Creation of Appointive Officers	2-2-6	Surety
2-2-2	Appointment of Officers	2-2-7	Blanket Position Bond
2-2-3	Terms of Appointive Officers	2-2-8	Bonds Filed
2-2-4	Vacancies in Offices	2-2-9	Boards and Commissions
2-2-5	Bonds Required		

2-2-1 CREATION OF APPOINTIVE OFFICERS. There are hereby created the following appointive officers: Clerk, Attorney, Superintendent of Public Utilities, and Fire Chief.

2-2-2 APPOINTMENT OF OFFICERS. The Mayor shall appoint a Mayor Pro Tempore and shall appoint and may dismiss the Police Chief with the consent of a majority of the City Council.

Fire Chiefs shall be elected for terms of one (1) year by the members of the volunteer Fire Department, with the approval of the City Council.

All other officers shall be appointed or selected by the City Council unless otherwise provided by law or Ordinance.

(Code of Iowa, Sec. 372.4(2))

2-2-3 TERMS OF APPOINTIVE OFFICERS. The terms of all appointive officers that are not otherwise fixed by law or Ordinance shall be one (1) year.

2-2-4 VACANCIES IN OFFICES. Vacancies in appointive office shall be filled in accordance with State law.

2-2-5 BONDS REQUIRED. Each municipal officer required by law or Ordinance to be bonded shall, before entering upon the duties of the office, execute to the City a good and sufficient bond, to be approved by the City Council, conditioned on the faithful performance of the duties and the proper handling and accounting for the money and property of the City in the official's charge unless the City Council shall have provided for a blanket position surety bond.

(Code of Iowa, Sec. 64.13)

2-2-6 SURETY. Any association or corporation which makes a business of insuring the fidelity of others and which has authority to do such business within Iowa shall be accepted as surety on any of the bonds.

2-2-7 BLANKET POSITION BOND. The City Council shall provide for a blanket position bond to cover all officers and employees of the City, but the City Council may provide by resolution for a surety bond for any other officer or employee that the City Council deems necessary. The City shall pay the premium on any official bond.

(Code of Iowa, Sec. 64.13)

2-2-8 BONDS FILED. All bonds when duly executed shall be filed with the Clerk, except that the Clerk's bond shall be filed with the Mayor.

(Code of Iowa, Sec. 64.23)

2-2-9 BOARDS AND COMMISSIONS.

1. Membership and Sections. Membership and selections of members of boards and commissions shall be as specified in this Chapter or the Code of Iowa. Any committee, board, or commission so established shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the City Council or as specified in the Code of Iowa.

2. Residency Requirement: No person shall be appointed or reappointed to a committee, board, or commission or ad hoc committee created by such committee, board, or commission unless such person is, at the time of such appointment or reappointment, a resident of the City, and any person so appointed or reappointed shall maintain such residency during the term of the appointment or reappointment. Any member of a committee, board, or commission or ad hoc committee created by such committee, board, or commission who fails to maintain such residency shall be deemed removed as of the date of such change of residency, any provision in this Code to the contrary notwithstanding.

3. Removal of Members of Boards and Commissions: The City Council may remove any member of any board or commission, which it has established.

4. Gender Balance: Boards and commissions shall be gender balanced in accordance with Section 69.16A (Iowa Code).

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS

- |       |   |       |   |
|-------|---|-------|---|
| 2-3-1 | General Duties                                | 2-3-7 | Powers and Duties of the City Attorney                      |
| 2-3-2 | Books and Records                             | 2-3-8 | Powers and Duties of the Superintendent of Public Utilities |
| 2-3-3 | Deposits of Municipal Funds                   | 2-3-9 | Powers and Duties of the Fire Chief                         |
| 2-3-4 | Transfer of Records and Property To Successor |       |   |
| 2-3-5 | Powers and Duties of the Mayor                |       |   |
| 2-3-6 | Powers and Duties of the Clerk                |       |   |

2-3-1 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and Ordinance, or as otherwise directed by the City Council unless contrary to State law or City charter.

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

2-3-2 BOOKS AND RECORDS. All books and records required to be kept by law or Ordinance shall be open to inspection by the public upon request, except records required to be confidential by state or federal law.

(Code of Iowa, Sec. 22.1, 22.2, and 22.7)

2-3-3 DEPOSITS OF MUNICIPAL FUNDS. Prior to the fifth day of each month, each office or department shall deposit all funds collected on behalf of the municipality during the preceding month. The officer responsible for the deposit of funds shall take such funds to the City Clerk, together with receipts indicating the sources of the funds.

2-3-4 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to the official's successor in office all books, papers, records, documents and property, together with an invoice of the same, in the official's custody and appertaining to the official's office.

2-3-5 POWERS AND DUTIES OF THE MAYOR. The duties of the Mayor shall be as follows:

1. The Mayor shall supervise all departments of the City and give direction to department heads concerning the functions of the departments. The Mayor shall 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, Section 372.14(1))

2. The Mayor shall act as presiding officer at all regular and special City Council meetings. The Mayor pro tem shall serve in this capacity in the Mayor's absence.

(Code of Iowa, Sec. 372.14(1) and (3))

3. 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 City Council at the time of the veto. Within thirty days after the Mayor's veto, the City Council may pass the measure again by a vote to not less than two-thirds of all of the members of the City Council. If the Mayor vetoes an ordinance, amendment, or resolution and the City 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.

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

(Code of Iowa. Sec. 380.6)

4. The Mayor shall 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 or Ordinance.

5. The Mayor shall, whenever authorized by the City Council, sign all contracts on behalf of the City.

6. The Mayor shall call special meetings of the City Council when the Mayor deems such meetings necessary to the interests of the City.

7. The Mayor shall make such oral or written reports to the City Council at the first meeting of every month as referred. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for City Council action.

8. Immediately after taking office the Mayor shall designate one member of the City Council as Mayor pro tempore. The Mayor pro tempore shall be vice-president of the City Council. Except for the limitations otherwise provided herein, the Mayor pro tempore shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform the duties of the office. In the exercise of the duties of the office the Mayor pro tempore shall not have power to appoint, employ or discharge from employment officers or employees without the approval of the City Council. The Mayor pro tempore shall have the right to vote as a member of the City Council.

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

9. The Mayor shall, upon order of the City Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the City Council the Mayor shall conduct said duties in accordance with the City Ordinance and the laws of the State of Iowa.

10. The Mayor shall sign all licenses and permits which have been granted by the City Council, except those designated by law or Ordinance to be issued by another municipal officer.

11. Upon authorization of the City Council, the Mayor shall revoke permits or licenses granted by the City Council when their terms, the Ordinances of the City, or the laws of the State of Iowa are violated by holders of said permits or licenses.

12. The Mayor shall order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. This order shall be in writing. The order to remove said nuisances shall be carried out by the County Sheriff.

2-3-6 POWERS AND DUTIES OF THE CLERK. The duties of the Clerk shall be as follows:

1. The Clerk shall attend all regular and special City Council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each City fund, within fifteen (15) days of the City Council meeting. The statement shall further include a list of all claims allowed, a summary of all receipts and the gross amount of the claims.

(Code of Iowa, Sec. 372.13(4) and (6))

2. The Clerk shall record each measure taken by the City Council, stating where applicable whether the Mayor signed, vetoed, or took no action on the measure and what action the City Council made upon the Mayor's veto.

(Code of Iowa, Sec. 380.7(1))

3. The Clerk shall cause to be published either the entire text or a summary of all Ordinances and amendments enacted by the City. "Summary" shall mean a narrative description of the terms and conditions of an Ordinance setting forth the main points of the Ordinance in a manner calculated to inform the public in a clear and understandable manner the meaning of the Ordinance and which shall provide the public with sufficient notice to conform to the desired conduct required by the Ordinance. The description shall include the title of the Ordinance, an accurate and intelligible abstract or synopsis of the essential elements of the Ordinance, a statement that the description is a summary, the location and the normal business hours of the office where the Ordinance may be inspected, when the Ordinance becomes effective, and the full text of any provisions imposing fines, penalties, forfeitures, fees, or taxes. Legal descriptions of property set forth in Ordinances shall be described in full, provided that maps or charts may be substituted for legal descriptions when they contain sufficient detail to clearly define the area with which the Ordinance is concerned. The narrative description shall be written in a clear and coherent manner and shall, to the extent possible, avoid the use of technical or legal terms not generally familiar to the public. When necessary to use technical or legal terms not generally familiar to the public, the narrative description shall include definitions of those terms.

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

(Code of Iowa, Sec. 380.7(1) and (2))

4. The Clerk shall maintain copies of all effective City Ordinances and codes for public review.



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

5. The Clerk shall publish notice of public hearings, elections and other official actions as required by State and City law.

(Code of Iowa, Sec. 362.3)

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

(Code of Iowa, Sec. 380.11)

7. The Clerk shall be the chief accounting officer of the City.

8. The Clerk shall keep separate accounts for every appropriation, department, public improvement or undertaking, and for every public utility owned or operated by the City. Each account shall be kept in the manner required by law.

(Code of Iowa, Sec. 384.20)

9. Following City Council adoption for the budget, the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors.

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

10. The Clerk shall report to the City Council at the first meeting of each month the status of each municipal account as of the end of the previous month.

11. The Clerk shall balance all funds with the bank statement at the end of each month.

12. The Clerk shall prepare the annual public report, publish it, and send a certified copy to the State Auditor and other State officers as required by law.

(Code of Iowa, Sec. 384.22)

13. The Clerk shall maintain all City records as required by law.

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

14. The Clerk shall have custody and be responsible for the safekeeping of all writings or documents in which the municipality is a party in interest unless otherwise specifically directed by law or Ordinance.

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

15. The Clerk shall file and preserve all receipts, vouchers, and other documents kept, or that may be required to be kept, necessary to prove the validity of every transaction and the identity of every person having any beneficial relation thereto.

16. The Clerk shall 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 the Clerk's duty. The Clerk shall furnish a copy to any citizen when requested upon payment of the fee set by City Council resolution. The Clerk shall, under the direction of the Mayor or other authorized officer, affix the seal of the

corporation to those public documents or instruments which by Ordinance are required to be attested by the affixing of the seal.

(Code of Iowa, Sec. 380.7(4), Sec. 22.2 and 22.7)

17. The Clerk shall attend all meetings of committees, boards and commissions of the City. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

19. The Clerk shall issue all licenses and permits approved by the City Council, and keep a record of licenses and permits issued which shall show a 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))

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

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

21. The Clerk shall preserve a complete record of every City election, regular or special and perform duties required by law or Ordinance of the City Clerk in regard to elections.

(Code of Iowa, Sec. 376.4)

22. The Clerk shall draw all warrants/checks for the City upon the vote of the City Council.

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

23. The Clerk shall show on every warrant/check the fund on which it is drawn and the claim to be paid.

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

24. The Clerk shall keep a warrant/check record in a form approved by the City Council, showing the number, date, amount, payee's name, upon what fund drawn, and for what claim each warrant/check is issued.

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

25. The Clerk shall bill and collect all charges, rents or fees due the City for utility and other services, and give a receipt therefor.

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

26. Annually, the Clerk shall prepare and submit to the City Council an itemized budget of revenues and expenditures.

(Code of Iowa, Sec. 384.16)

27. The Clerk shall keep the record of each fund separate.  
(Code of Iowa, Sec. 372.13(4) and 384.85)
28. The Clerk shall keep an accurate record for all money or securities received by the Clerk on behalf of the municipality and specify date, from whom, and for what purposes received.  
(Code of Iowa, Sec. 372.13(4))
29. The Clerk shall prepare a receipt in duplicate for all funds received. The Clerk shall give the original to the party delivering the funds, and retain the duplicate.  
(Code of Iowa, Sec. 372.13(4))
30. The Clerk shall keep a separate account of all money received by the Clerk for special assessments.  
(Code of Iowa, Sec. 372.13(4))
31. The Clerk shall, immediately upon receipt of monies to be held in the Clerk's custody and belonging to the City, deposit the same in banks selected by the City Council in amounts not exceeding monetary limits authorized by the City Council.  
(Code of Iowa, Sec. 372.13(4))
32. The Clerk shall manage the fiscal operations of the City Library.

2-3-7 POWERS AND DUTIES OF THE CITY ATTORNEY. The duties of the City Attorney shall be as follows:

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

1. Upon request, the City Attorney shall attend regular meetings of the City Council and attend those special meetings of the City Council at which the City Attorney is required to be present.
2. The City Attorney shall, upon request, formulate drafts for contracts, forms and other writings which may be required for the use of the City.
3. The City Attorney shall keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defined by the City Attorney accompanied by all proceedings relating to said actions.
4. The City Attorney shall, upon request, give an opinion in writing upon all questions of law relating to municipal matters submitted by the City Council, the Mayor, members of the City Council individually, municipal boards or the head of any municipal department.
5. The City Attorney shall prepare those Ordinances when the City Council may desire and direct to be prepared and report to the City Council upon all Ordinances before their final passage by the City Council and publication.

6. 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 City Council.

7. The City Attorney shall, however, if directed by the City Council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

8. 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.

9. The City Attorney shall make a written report to the City Council and interested department heads of the defects in all contracts, documents, authorized power of any City officer, and Ordinances submitted to said City Attorney or coming under said City Attorney's notice.

10. The City Attorney shall, upon request, after due examination, offer a written opinion on and recommend alterations pertaining to contracts involving the City before they become binding upon the City or are published.

#### 2-3-8 POWERS AND DUTIES OF THE SUPERINTENDENT OF PUBLIC UTILITIES.

The duties of the superintendent of public utilities shall be as follows:

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

1. The Superintendent shall be responsible for the management, operation and maintenance of all municipal utilities.

2. The Superintendent shall keep records of accounts payable, revenues, accounts receivable, expenditures made, depreciation of plant and equipment, and a continuous up-to-date inventory of all goods and supplies. The Superintendent shall keep all other records ordered to be kept by the Mayor in addition to those provided for by law or Ordinance.

3. The Superintendent shall make a report every month in writing to the Mayor and City Council on the present state of the public utilities. In this report shall be specifically stated the financial condition, production and the general condition of the entire utilities enterprise. The Superintendent shall, at the close of every year, compile (or cause to be compiled) a written annual report of the activities and general condition of the public utilities of the City. This report shall contain a statement of the general progress and accomplishments of the plants and systems for the year covered in the report; a statement of financial operations for the year showing revenues, expenditures, and profits or losses; a summary of the history of the financial operations of the plant for the past five (5) years showing total revenue, cost of operations, depreciation, interest on bonds and net profits; a statement of free services rendered to the municipality during the year and their estimated cash value; a statement of the rate schedules that are presently in effect; and a balance sheet with a statement of all assets, liabilities and reserves.

4. The Superintendent shall supervise the installation of all storm sewers in the City in accordance with the regulations of the department of public works pertaining to the installation of storm sewers.

5. The Superintendent shall supervise maintenance and repair of sidewalks, alleys, bridges, and streets and keep them in a reasonably safe condition for travelers. The Superintendent shall immediately investigate all complaints of the existence of dangerous or impassable conditions of any sidewalk, street, alley, bridge, underpass or overpass, or other city property, and is charged with the duty of correcting unsafe defects.

6. The Superintendent shall, whenever snow or ice imperil travel upon streets and alleys, be in charge of removing said snow and ice from the streets and alleys in the City and shall do whatever else is necessary and reasonable to make travel upon streets and alleys of the City safe.

7. The Superintendent shall compile and maintain written records of the purchases, accomplishments, disposition of equipment and manpower, an up-to-date inventory, and activities contemplated by the street department. The Superintendent shall make monthly oral and written reports of the activities of the department to the Mayor on or before the first day of each month.

8. The Superintendent shall perform all other duties of a public works nature which are not specifically assigned to other municipal officials or employees.

2-3-9 POWERS AND DUTIES OF THE FIRE CHIEF. The duties of the Fire Chief shall be as follows:

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

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

2. The Fire Chief shall enforce all rules and regulations established by the City Council for the conduct of the affairs of the fire department.

3. The Fire Chief shall exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.

4. The Fire Chief shall cause to be kept records of the fire department personnel, operating cost and efficiency of each element of firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

5. The Fire Chief shall make monthly written reports on or before the fifth day of each month to the Mayor and City Council concerning the general status and efficiency of the fire department, the number of alarms answered during the month previous, and additional information that may be requested by the Mayor or the City Council. The Fire Chief shall compile an annual report based upon the records maintained by the fire department and

summarizing the activities of the fire department for the year. This report shall be filed with the Mayor. The annual report shall also contain recommendations for the improvement of the department.

6. The Fire Chief shall enforce all Ordinances and, where enabled, state laws regulating the following:

- a. Fire prevention.
- b. Maintenance and use of fire escapes.
- c. The investigation of the cause, origin and circumstances of fires.
- d. The means and adequacy of exits in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.
- e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.

7. The Fire Chief shall have the right of entry into any building or premises within the Fire Chief's jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The Fire Chief shall there conduct such investigation or inspection that the Fire Chief considers necessary in light of state law, regulations or Ordinance.

8. The Fire Chief shall make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.

9. The Fire Chief shall, at the request of the State Fire Marshal, and as provided by law, aid said Marshal in the performance of the Marshal's duties by investigating, preventing and reporting data pertaining to fires.



## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS

2-4-1 Council Member

2-4-2 Mayor

2-4-3 Mayor Pro Tem

2-4-4 Other Officers

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be \$50.00 for each meeting of the City Council, not to exceed \$800.00 within one year.

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

2-4-2 MAYOR. The Mayor shall receive an annual salary of \$3,600.00 to be paid in equal monthly installments.

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

2-4-3 MAYOR PRO TEM. If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of fifteen days or more, the Mayor Pro Tem may be paid for that period the compensation determined by the City 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))

2-4-4 OTHER OFFICERS. The compensation of all other officers and employees shall be set by resolution of City Council.

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





## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 5 CITY FINANCE

2-5-1	Budget Adoption	2-5-7	Expenditures
2-5-2	Budget Amendment	2-5-8	Authorizations to Expend
2-5-3	Accounts and Programs	2-5-9	Accounting
2-5-4	Annual Report	2-5-10	Budget Accounts
2-5-5	Council Transfers	2-5-11	Contingency Accounts
2-5-5	Budget Officer		

2-5-1 BUDGET ADOPTION. Annually, the City shall prepare and adopt a budget, and shall certify taxes as follows:

(Code of Iowa, Sec. 384.16)

1. A budget shall be prepared for at least the following fiscal year. When required by rules of the State City finance committee, a tentative budget shall be prepared for one or two ensuing years. The proposed budget shall show estimates of the following:

- a. Expenditures for each program.
- b. Income from sources other than property taxation.
- c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

The budget shall show comparisons between the estimated expenditures in each program in the following year and the actual expenditures in each program during the two preceding years. Wherever practicable, as provided in rules of the State City finance committee, a budget shall show comparisons between the levels of service provided by each program as estimated for the following year, and actual levels of service provided by each program during the two preceding years.

2. Not less than twenty days before the date that the budget must be certified to the County Auditor and not less than ten days before the date set for hearing, the Clerk shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers, and have them available for distribution at the offices of the Mayor and Clerk and at the City library, if any, or at three places designated by Ordinance for posting notices.

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

3. The City Council shall set a time and place for a public hearing on the budget before the final certification date and shall publish notice before the hearing as provided in Iowa law. Proof of publication shall be filed with the County Auditor.

4. At the hearing, any resident or taxpayer of the City may present to the City Council objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.

5. After the hearing, the City Council shall adopt a budget for at least the following fiscal year, and the Clerk shall certify the necessary tax levy for the following 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, unless an additional tax levy is approved at a City election. Two copies of the complete budget as adopted shall be transmitted to the County Auditor.

2-5-2 BUDGET AMENDMENT. The City budget as finally adopted for the following fiscal year becomes effective July first and constitutes the City appropriation for each program and purpose specified therein until amended. The City budget for the current fiscal year may be amended for any of the following purposes:

(Code of Iowa, Sec. 384.18)

1. To permit the appropriation and expenditures of unexpended, unencumbered cash balances on hand at the end of the preceding fiscal year which had not been anticipated in the budget.
2. To permit the appropriation and expenditure of amounts anticipated to be available from sources other than property taxation, and which had not been anticipated in the budget.
3. To permit transfers from the debt service fund, the capital improvements reserve fund, the emergency fund, or other funds established by State law, to any other City fund, unless specifically prohibited by State law.
4. To permit transfers between programs within the general fund.

The budget amendment shall be prepared and adopted in the same manner as the original budget, and is subject to protest as provided in Section 2-5-3 of this chapter, except that the City Finance Committee may by rule provide that amendments of certain types or up to certain amounts may be made without public hearing and without being subject to protest.

2-5-3 ACCOUNTS AND PROGRAMS. The City shall keep separate accounts corresponding to the programs and items in its adopted or amended budget, as recommended by the State City Finance Committee.

The City shall keep accounts which show an accurate and detailed statement of all public funds collected, received, or expended for any City purpose, by any City officer, employee, or other person, and which show the receipt, use, and disposition of all City property. Public monies may not be expended or encumbered except under an annual or continuing appropriation.

(Code of Iowa, Sec. 384.20)

2-5-4 ANNUAL REPORT. Not later than December first of each year the City shall publish an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of this report shall be furnished to the Auditor of State.

(Code of Iowa, Sec. 384.22)

2-5-5 COUNCIL TRANSFERS. When the City Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the City Clerk shall inform the City Council or if the City Council upon its own investigation so determines, and another account within the same programs has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation which alone or with the other accounts can provide the needed appropriations, the City Council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers. Upon the passage of the resolution and approval by the Mayor, as provided by law for resolutions, the City Clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the City Council. Thereupon the Clerk, and where applicable, the City Treasurer, shall cause the appropriation to be revised upon the appropriation expenditure ledgers of the City, but in no case shall the total of the appropriation of a program be increased except for transfers from the contingency account nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

(IAC, Sec. 545.2.4(384,388))

2-5-6 BUDGET OFFICER. The City Clerk shall be the City budget officer and is responsible for preparing the budget data in cooperation with the City Council or Mayor. The City Clerk shall be responsible for carrying out the authorizations and plans in the budget as set forth in the budget, subject to City Council control and the limitations set out in this Ordinance.

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

2-5-7 EXPENDITURES. The City Council shall set by resolution routine bills to be paid without City Council authorization to avoid any unnecessary fees. The City Clerk is allowed a purchasing limit of \$500 for all city business without prior City Council approval. All monthly spending and bank reconciliation shall be reviewed at each meeting of the City Council and be signed by a member of the Financial Committee. All invoices and statements will have a bill sheet to be initialed by a minimum of three Council persons and stamped "Council Approved". The Superintendent of Utilities will initial all bill invoice/statements that pertain to the department, which prior authorization has been obtained from the City Council, for purchases of over \$2,500 unless by emergency.

2-5-8 AUTHORIZATIONS TO EXPEND. All purchase orders other than those excepted herein shall be authorized by the City budget officer after determining whether the purchase, if a major item, has been authorized by the budget or other City Council approval. The Clerk shall then determine whether a purchase order may be issued by checking the availability of an appropriation sufficient to pay for such a purchase. A purchase order may be issued only if there is an appropriation sufficient for the purchase and for other anticipated or budgeted purposes. If no adequate appropriation is available for the expenditure contemplated the Clerk shall not issue a purchase order until a budget amendment to transfer of appropriation is made in accordance with power delegated by City Council and within the limits set by law and the City Council. The Clerk shall draw a warrant/check only upon an invoice received, or progress billing for a public improvement, supported by a purchase order and a signed receipt or other certification indicating the material has been delivered of the quality and in the quantities indicated or the services have been performed satisfactorily to the extent invoiced.

2-5-9 ACCOUNTING. The Clerk shall set up and maintain books of original entry to provide a chronological record of cash received and disbursed through all receipts given and warrants written, which receipts and warrants shall be prenumbered, in accordance with modern, accepted methods, and the requirement of the state. The Clerk shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Warrants/checks shall be signed by the City Clerk Mayor, Mayor pro-tem or Council Financial Chair.

(Code of Iowa, Sec. 384.20)

2-5-10 BUDGET ACCOUNTS. The Clerk shall set up such individual accounts to record receipts by source and expenditures by program and purpose as will provide adequate information and control for budgetary purposes as planned and approved by the City Council. Each individual account shall be maintained within its proper fund as required by City Council order or State law and shall be so kept that receipts can be immediately and directly compared with specific estimates and expenditures can be related to the appropriation which authorized it. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

(Code of Iowa, Sec. 384.20)

2-5-11 CONTINGENCY ACCOUNTS. Whenever the City Council shall have budgeted for a contingency account the Clerk shall set up in the accounting records but the Clerk shall not charge any claim to a contingency account. Said contingency accounts may be drawn upon only by City Council resolution directing a transfer to a specific purpose account within its fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency.

All administrative transfers shall be reported in writing at the next regular meeting of the City Council after being made and the facts set out in the minutes for the information of the Mayor and City Council.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 6 CITY COUNCIL

2-6-1 Powers and Duties  
2-6-2 Exercise of Power

2-6-3 Meeting

2-6-1 POWER AND DUTIES. The powers and duties of the City Council include, but are not limited to the following:

1. General. All powers of the City are vested in the City Council except as otherwise provided by law or ordinance.  
(Code of Iowa, Sec. 364.2(1))
2. Wards. By ordinance, the City 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 City 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 City Council shall make all orders for the doing of work, or the making or construction of any improvements, bridges or buildings.  
(Code of Iowa, Sec. 364.2(1))
5. Contracts. The City Council shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the City unless either made by ordinance or resolution adopted by the City Council, or reduced to writing and approved by the City Council, or expressly authorized by ordinance or resolution adopted by the City Council.  
(Code of Iowa, Sec. 364.2(1) & 384.95 through 384.102)
6. Employees. The City Council shall authorize, by resolution, the number, duties, term of office and compensation of employees or officers not otherwise provided for by the State law or the Code of Ordinances.  
(Code of Iowa, Sec. 372.13(4))
7. Setting Compensation for Elected Officers. By ordinance, the City Council shall prescribe the compensation of the Mayor, City 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 City 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 City Council members becomes effective for all City Council members at

the beginning of the term of the City Council members elected at the election next following the change in compensation.

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

2-6-2 EXERCISE OF POWER. The City 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. Approved Action by the City Council. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the City Council members. A motion to spend public funds in excess of twenty five thousand dollars (\$25,000) on any one project, or a motion to accept public improvements and facilities upon their completion also requires an affirmative vote of not less than a majority of the City Council members. Each Council member's vote on an ordinance, amendment or resolution must be recorded.

(Code of Iowa, Sec. 380.4)

(Amended in 2008)

2. Overriding Mayor's Veto. Within thirty (30) days after the Mayor's veto, the City Council may repass the ordinance or resolution by a vote of not less than two-thirds of the City Council members, and the ordinance or resolution becomes effective upon repassage and publication.

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

3. Measures Become Effective. Measures passed by the City Council, other than motions, become effective in one of the following ways:

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

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

b. If the Mayor vetoes a measure and the City 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 published unless a subsequent effective date is provided with the measure.

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

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

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

2-6-3 MEETINGS. Procedures for giving notice of meetings of the City Council and other provisions regarding the conduct of City Council meetings are contained in Section 5.06 of this Code of Ordinances. Additional particulars relating to City Council meetings are the following:

1. Regular Meetings. The regular meetings of the City Council are on the first Mondays of each month at seven o'clock (7:00) p.m. in the City Council Chambers at City Hall. If such day falls on a legal holiday or Christmas Eve, the meeting is held on such different day or time as determined by the City Council.

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

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

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

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

4. Rules of Procedure. The City 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 City 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.





## TITLE III COMMUNITY PROTECTION

### CHAPTER 1 OFFENSES

3-1-1	Violations of Chapter	3-1-4	Streets
3-1-2	Public Peace	3-1-5	Public Safety and Health
3-1-3	Public Morals	3-1-6	Public Property

3-1-1 VIOLATIONS OF CHAPTER. Commission of any of the acts named in the following sections by any person shall constitute a violation of this chapter.

3-1-2 PUBLIC PEACE. It shall be unlawful for any person to do any of the following:

1. Engage in fighting or violent behavior or invite or defy another person to fight, 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. Make unusually loud or excessive noise which results in the disturbance of the peace and the public quiet of a neighborhood.

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

3. Willfully permit upon any premises owned, occupied, possessed or controlled by such person any unusually loud or excessive noise in such a manner calculated to provoke a breach of the peace of others, or the public quiet of the neighborhood.

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

4. Direct abusive language 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))

5. Without lawful authority or order 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))

6. Without authority, obstruct any street, sidewalk, highway or other public way.

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

7. Without authority, solicit contributions, distribute literature, or otherwise peddle or sell goods and services within the traveled portion of any roadway.

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

3-1-3 PUBLIC MORALS. Indecent exposure. It shall be unlawful for any person to expose such person's genitals, pubes, female nipples, or buttocks to another or to urinate or defecate in public or in view of the public.

### 3-1-4 STREETS.

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down, destroy, deface, or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

2. Obstructing or defacing streets. No person shall obstruct, deface, or injure any public road in any manner by breaking up, plowing or digging within the boundary lines thereof, without permission from the Mayor.

(Code of Iowa, Sec. 716.1)

3. Allowing water, snow, ice and accumulations on sidewalk. No abutting property owner shall allow water from an improperly located eave or drain, or from any roof, to fall onto a public sidewalk, or fail to remove snow, ice and accumulations from the sidewalks promptly. Upon failure by the abutting property owner to perform the action required under this subsection within a reasonable time, the City may perform the required action and assess the costs against the abutting property.

(Code of Iowa, Sec. 364.12(2)(b and e))

4. Removal of hydrant caps, sewer caps or manhole covers. No person shall remove or carry away hydrant caps, sewer caps or manhole covers without the consent of the person in control thereof.

### 3-1-5 PUBLIC SAFETY AND HEALTH.

1. Expectoring. No person shall expectorate on the ground or in any structure within the City limits.

(Code of Iowa, Sec. 364.1)

2. Putting debris on streets and sidewalks. No person shall throw or deposit on any street or sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance, which the person knows or has reason to know may injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

3. Carrying a concealed weapon. It shall be unlawful for any person to carry under such person's clothes or concealed about their person or to be found in possession of any slingshot, knuckles of metal or other material, air gun or any other weapon other than a knife, unless licensed by the Iowa Department of Public Safety or having in possession a valid permit from the County Sheriff.

4. False alarms. No person shall give or cause to be given any false alarm of a fire, nor set fire to any combustible material, or cry or sound an alarm or by any other means without cause.

5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

6. Discharging firearms and fireworks.

(Code of Iowa, Sec. 727.2)

a. No person, firm, or corporation shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive.

b. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator.

c. The City Council may, upon application in writing, grant a permit for the operation of a firing range in which the discharge of firearms for training, recreational or competitive events would be allowed upon showing that the range would be under the direction of a competent organization, group or individual.

d. In the interest of public health and safety and at such times as approved by the County Sheriff's Department, the police or their designee may use firearms to control rodent or animal problems when it is evident that conventional control methods have not resolved the problem.

e. Nothing herein shall be construed to prohibit the use of blank cartridges for a show or the theatre, or for signal purposes in athletic sports or by railroads, or trucks, for signal purposes, or by a recognized military organization and provided further that nothing in this section shall apply to any substance or composition prepared and used for medicinal or fumigation purposes.

7. Possession of Fireworks.

a. Definition. The term "fireworks" includes any explosive composition, or combination of explosives, substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion or detonation and includes blank cartridges, firecrackers, torpedoes, sky rockets, Roman Candles or other fireworks of like construction and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The

term "fireworks" does not include gold star-producing sparklers on wires that contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed 1/8 inch in diameter, toy snakes that contain no mercury, or caps used in cap pistols.

b. Exemption. The use of blank cartridges for a show or the theater, or for signal purposes in athletic events, or by railroads or trucks for signal purposes, or by recognized military organizations is exempt from this Subsection.

c. Prohibition. No person shall possess fireworks except as provided in this Chapter.

8. Abandoned refrigerators. No person shall place, or allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an air-tight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or other structure, under such person's control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, icebox or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.

(Code of Iowa, Sec. 727.3)

9. Impersonating an officer. No person shall falsely represent themselves or falsely assume to be any law enforcement officer, judge or magistrate. It shall be unlawful to wear or adopt the uniform or insignia of any law enforcement officer on any street or public place.

(Code of Iowa, Sec. 718.2)

10. Harassment of City Employees.

a. It shall be unlawful for any person to willfully prevent, resist or obstruct or attempt to prevent, resist or obstruct any City employee from the performance of any official duty.

b. It shall be unlawful for any person to communicate by any means, any threat of bodily or property harm to any City employee or to any member of the employee's family during the course of, or as a result of, the performance of any official duty by said City employee.

11. Antenna and radio wires. No person shall allow, locate or maintain any antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk or public property.

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

12. Barbed wire. No person shall install, allow to be installed or use barbed wire without the consent of the City Council.

(Code of Iowa, Sec. 364.1)

13. Playing in streets. No person shall coast, sled or play games on streets or highways except in areas blocked off by the Mayor or Sheriff's Department for such purposes.  
(Code of Iowa, Sec. 364.12)

### 3-1-6 PUBLIC PROPERTY.

1. Defacing public grounds. No person shall cut, break or deface any tree or shrub in a public park or on any avenue thereto by willfully defacing, cutting, breaking or injuring, except by the authority of the Mayor.  
(Code of Iowa, Sec. 364.12(2))

2. Injuring new pavement. No person shall injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement.  
(Code of Iowa, 364.12(2))

3. Destroying park equipment. No person shall destroy or injure any property or equipment in public swimming pools, playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.  
(Code of Iowa, Sec. 364.12(2))

4. Injury to public library books or property. No person shall willfully or recklessly tear, deface, mutilate, injure or destroy, in whole or in part, any newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to any public library or reading room.

5. Defacing or destroying proclamations or notices. No person shall intentionally deface, obliterate, tear down or destroy in whole or in part any transcript or extract from or of any law of the United States or of this State, or any proclamation, advertisement or notification, set up at any place within the City by authority of 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)

6. Injury to gravestones or property in cemetery. No person shall willfully or recklessly destroy, mutilate, deface, injure or remove any tomb, vault, monument, gravestone or other structure placed in any public or private cemetery, or any fences, railing or other work for the protection, ornamentation of said cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or willfully and maliciously destroy, cut, break or injure any tree, shrub, plant or lawn within the limits of said cemetery, or drive outside of said avenues and roads, and over the grass or graves of said cemetery.  
(Code of Iowa, Sec. 716.1)

7. Injury to fire apparatus. No person shall willfully destroy or injure any engines, hose carriage, hose, hook and ladder carriage, or other things used and kept for extinguishment of fires.  
(Code of Iowa, Sec. 716.1)

8. Injury to city ambulance or paramedic apparatus. No person shall willfully destroy or injure any ambulance or paramedic unit, equipment or other things used to administer medical care.

(Code of Iowa, Sec. 716.1)

9. Obstructing or defacing roads. No person shall obstruct, deface or injure any public road by breaking up, plowing or digging within the boundary lines thereof, except by written authorization of the Mayor.

(Code of Iowa, Sec. 716.1)

10. Injury to roads, railways, and other utilities. No person shall injure, remove or destroy any electric railway or apparatus belonging thereto, or any bridge, rail or plank road; or place or cause to be placed, any obstruction on any electric railway, or on any such bridge, rail or plank road; or willfully obstruct or injure any public road or highway; or cut, burn, or in any way break down, injure or destroy any post or pole used in connection with any system of electric lighting, electric railway, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way cut, break or injure the wires of any apparatus belonging thereto; or willfully without proper authorization tap, cut, injure, break, disconnect, connect, make any connection with, or destroy any of the wires, mains, pipes, conduits, meters or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant or water plant; or aid or abet any other person in so doing.

(Code of Iowa, Sec. 716.1)

11. Tapping into Utility Transmission Cables. No person shall connect to any transmission cable without first obtaining permission from the owner of the cable.

(Code of Iowa, Sec. 727.8)

12. Obstructing ditches and breaking levees. No person shall divert, obstruct, impede, or fill up, without legal authority, any ditch, drain, or watercourse, or break down any levee established, constructed, or maintained under any provision of law.

(Code of Iowa, Sec. 716.1)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 2 NUISANCES

3-2-1	Definitions	3-2-7	Request for Hearing and Appeal
3-2-2	Nuisances Prohibited	3-2-8	Abatement in Emergency
3-2-3	Other Conditions Regulated	3-2-9	Abatement by Municipality
3-2-4	Notice to Abate Nuisance or Condition	3-2-10	Collection of Cost of Abatement
3-2-5	Contents of Notice to Abate	3-2-11	Installment Payment of Cost of Abatement
3-2-6	Method of Service	3-2-12	Condemnation of Nuisance

3-2-1 DEFINITIONS. For use in this Ordinance, the following terms are defined:

1. The term "nuisance" means whatever is injurious to health, indecent, or unreasonably offensive to the senses or an obstacle to the free use of property, so as essentially to unreasonably interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:

(Code of Iowa, Sec. 657.1)

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

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

b. The causing or suffering any offal, filth, or noisome substance to accumulate or to remain in any place to the prejudice of others.

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

c. The obstructing or impeding without legal authority the passage of any navigable river, harbor, or collection of water.

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

d. The polluting or rendering unwholesome or impure the water of any river, stream, or pond, or unlawfully diverting the same from its natural course or state, to the injury or prejudice of others.

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

e. The obstructing or encumbering by fences, buildings, or otherwise the public roads, private ways, streets, alleys, commons, landing places, or burying grounds.

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



f. Houses of ill fame, kept for the purpose of prostitution and lewdness, gambling houses, or houses resorted to for the use of controlled substances or houses where drunkenness, quarreling, fighting or breaches of the peace are carried on or permitted to the disturbance of others.

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

g. Billboards, signboards, and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof, especially near intersecting streets.

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

h. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees in the City.

i. Any object or structure hereafter erected within 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.

(Code of Iowa, Sec. 657.2(8))

j. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by any person, including a dealer in such articles, unless it be in a building of fire resistant construction.

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

k. The emission of dense smoke, noxious fumes, or fly ash.

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

l. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City deemed by the City Council to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way.

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

m. Trees infected with Dutch elm disease.

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

n. Effluent from septic tank or drain field running or ponding on the ground in the open.

o. Any article or substance placed upon a street, alley, sidewalk, public ground, or in any ditch, waterway, or gutter so as to obstruct the drainage.

(Code of Iowa, Sec. 716.1)

p. Accumulations of rubbish or trash tending to harbor vermin, rodents, and rank growth of weeds or other vegetation and plants, which is conducive to hazard.

(Code of Iowa, Sec. 657.2)

2. The term "property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title.

(Code of Iowa, Sec. 364.1)

3-2-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided in this chapter.

(Code of Iowa, Sec. 657.3)

3-2-3 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this Ordinance:

1. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.

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

2. The removal, repair, or dismantling of dangerous buildings or structures.

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

3. The numbering of buildings.

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

4. The connection to public drainage systems from abutting property when necessary for public health or safety.

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

5. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.

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

6. The cutting or destruction of weeds or other growth which constitutes a health, safety, or fire hazard.

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

7. The maintenance, by the property owner, of all property outside the lot and property lines and inside the curb lines upon public streets, including maintaining a fifteen (15) foot clearance above the street from trees extending over the streets, except as provided in Section 3-2-3(1).

3-2-4 NOTICE TO ABATE NUISANCE OR CONDITION. Whenever the Mayor or other authorized municipal officer finds that a nuisance or other condition exists which is listed in Section 3, the Mayor or officer shall notify the property owner as shown by the records of the County Auditor to abate the nuisance within a reasonable time after notice.

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

3-2-5 CONTENTS OF NOTICE TO ABATE. The notice to abate shall contain:

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

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

3-2-6 METHOD OF SERVICE. The notice may be sent by regular mail to the property owner as shown by the records of the County Auditor.

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

3-2-7 REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may have a hearing with the officer ordering the abatement as to whether a nuisance or prohibited condition exists. A request for a hearing must be made in writing and delivered to the officer ordering the abatement within the time stated in the notice, or it will be conclusively presumed that a nuisance or prohibited condition exists and it must be abated as ordered.

At the conclusion of the hearing, the hearing officer shall render a written decision as to whether a nuisance or prohibited condition exists. If the officer finds that a nuisance or prohibited condition exists, the officer must order it abated within an additional time which must be reasonable under the circumstances. An appeal from this decision may be had by immediately filing a written notice with the hearing officer. This appeal shall be heard before the City Council at a time and place fixed by the Council. The findings of the Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

3-2-8 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, and assess the costs as provided herein, after notice to the property owner under the applicable provision of Sections 3-2-4 and 3-2-5 and hearing as provided in Section 3-2-7.

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

3-2-9 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk, who shall pay such expenses on behalf of the municipality.

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

3-2-10 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred 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 City Clerk shall certify the costs to the County Treasurer and they shall then be collected with, and in the same manner, as general property taxes.

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

3-2-11 INSTALLMENT PAYMENT OF COST OF ABATEMENT. If the amount expended to abate the nuisance or condition exceeds \$100, the City may permit the assessment to be paid in up to ten annual installments, to be paid in the same manner and at the same rate of interest charged delinquent real estate taxes by the County Treasurer.

(Code of Iowa, Sec. 364.13)

3-2-12 CONDEMNATION OF NUISANCE. The City may condemn a residential building found to be abandoned and a public nuisance and take title to the property for the public purpose of disposing of the property under Chapter 657A by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)



## TITLE III COMMUNITY PROTECTION

### CHAPTER 3 TRAFFIC CODE

3-3-1 Short Title	SPECIAL STOPS REQUIRED
3-3-2 Definitions	
3-3-3 Traffic Accident Reports	3-3-18 Through Highways
3-3-4 Reserved	3-3-19 Authority to Erect Stop Signs
	3-3-20 Stops at Intersecting Through Highways and Other Intersections
ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS	3-3-21 Stop When Traffic Is Obstructed
	3-3-22 School Stops
3-3-5 Authority of County Sheriff and Fire Department Officials	PEDESTRIANS' RIGHTS AND DUTIES
3-3-6 Required Obedience to Provisions of this Chapter and State Law	3-3-23 Prohibited Crossing
	3-3-24 Pedestrians on Left
TRAFFIC CONTROL DEVICES	METHOD OF PARKING
3-3-7 Authority to Install Traffic- Control Devices	3-3-25 Standing or Parking Close To Curb
3-3-8 City Council to Designate Crosswalks, Establish, and Mark Traffic Lanes	3-3-26 Standing or Parking on the Left- Hand Side of One-Way Streets
3-3-9 Play Streets	3-3-27 Signs or Markings Indicating Angle Parking
	3-3-28 Obedience to Angle Parking Signs or Markings
SPEED REGULATIONS	STOPPING, STANDING OR PARKING PROHIBITED IN SPECIFIED PLACES
3-3-10 Changing State Speed Limits in Certain Zones	3-3-29 Stopping, Standing or Parking Prohibited in Specified Places
TURNING MOVEMENTS	3-3-30 Authority to Paint Curbs and Erect Signs Prohibiting Standing or Parking
3-3-11 Turning Markers, Buttons and Signs	3-3-31 Authority to Impound Vehicles
3-3-12 Authority to Place Restricted Turn Signs	STOPPING, STANDING OR PARKING
3-3-13 Obedience to No-Turn Signs	3-3-32 Parking Signs Required
3-3-14 "U" Turns	3-3-33 Parking During Snow Emergency
ONE-WAY STREETS AND ALLEYS	3-3-34 All-Night Parking Prohibited
3-3-15 Authority to Designate One-Way Streets and Alleys	3-3-35 Truck Parking Limited
3-3-16 One-Way Streets and Alleys	
3-3-17 Authority on Streets During Certain Periods	MISCELLANEOUS DRIVING RULES
	3-3-36 Vehicles Not to be Driven on

- Sidewalks
- 3-3-37 Clinging to Vehicles
- 3-3-38 Parking for Certain Purposes Prohibited
- 3-3-39 Driving Through Funeral or Other Procession
- 3-3-40 Drivers in a Procession
- 3-3-41 Funeral Processions to be Identified
- 3-3-42 Load Restrictions Upon Vehicles Using Certain Streets
- 3-3-43 Truck Routes
- 3-3-44 Vehicular Noise
- 3-3-45 Engine and Compression Brakes

### BICYCLE REGULATIONS

- 3-3-46 Definitions
- 3-3-47 Traffic Code Applies to Persons Riding Bicycles
- 3-3-48 Riding on Bicycles
- 3-3-49 Riding on Roadways and Bicycle Paths
- 3-3-50 Speed
- 3-3-51 Emerging from Alley or Driveway
- 3-3-52 Carrying Articles
- 3-3-53 Parking
- 3-3-54 Riding on Sidewalks
- 3-3-55 Lamps and Other Equipment on Bicycles

### SNOWMOBILES

- 3-3-56 Snowmobile Definitions
- 3-3-57 Permitted Areas of Operation
- 3-3-58 Regulations
- 3-3-59 Equipment Required
- 3-3-60 Unattended Vehicles
- 3-3-61 Restriction of Operation
- 3-3-62 Traffic Regulation
- 3-3-63 General Regulations
- 3-3-64 Negligence
- 3-3-65 Accident Report
- 3-3-66 Violations

### OFF-ROAD VEHICLES

- 3-3-67 Definitions
- 3-3-68 General Regulations
- 3-3-69 Operation
- 3-3-70 Permit
- 3-3-71 Traffic Regulations
- 3-3-72 Revocation of Permit
- 3-3-73 Negligence
- 3-3-74 Accident Report
- 3-3-75 Violations

### GOLF CARTS

- 3-3-76 Definitions
- 3-3-77 Operation of Golf Carts
- 3-3-79 Permit Required

### PENALTIES AND PROCEDURES

- 3-3-79 Notice of Fine Placed On Illegally Parked Vehicle
- 3-3-80 Presumption in Reference to Illegal Parking
- 3-3-81 Local Parking Fines
- 3-3-82 Failure to Pay Parking Citations

3-3-1 SHORT TITLE. This chapter may be known and cited as the "Traffic Code".

3-3-2 DEFINITIONS. Where words and phrases used in this chapter are defined in Chapter 321 of the Code of Iowa, such definitions shall apply to this Ordinance.

1. "Park and parking" means the stopping or standing of a vehicle, except for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.

2. "Stand or standing" means the halting of a vehicle, whether occupied or not, except for the purpose of and while actually engaged in receiving or discharging passengers.

3. "Stop", when required means complete cessation of movement.

4. "Stop or stopping", when prohibited, means 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 police officer or traffic-control sign or signal.

5. "Business districts" means: the territory contiguous to and including a highway when fifty percent or more of the frontage thereon for a distance of three hundred feet or more is occupied by buildings in use for business.

6. "Residential districts" means all areas of the City not included in business districts.

(Code of Iowa, Sec. 321.1)

3-3-3 TRAFFIC ACCIDENT REPORTS. The driver of a vehicle involved in an accident within the limits of this City shall file a report as and when required by the Iowa Department of Transportation. A copy of this report shall be filed with the County Sheriff's Department. All such reports shall be for the confidential use of the Sheriff's department and shall be subject to the provisions of Section 321.271 of the Code of Iowa.

The City shall maintain a suitable system of filing traffic accident reports.

(Code of Iowa, Sec. 321.266)

3-3-4 RESERVED.

## ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3-3-5 AUTHORITY OF SHERIFF AND FIRE DEPARTMENT OFFICIALS. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the Sheriff's Department. The officers of the Sheriff's Department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the Sheriff's Department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the police in directing traffic threat or in the immediate vicinity.

(Code of Iowa, Sec. 321.229)

3-3-6 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW. Any person who shall willfully fail or refuse to comply with any lawful order of a police officer or direction of a fire department officer during a fire, or who fails to abide by the provisions of this chapter and the applicable provisions of the following Iowa statutes relating to motor vehicles and the law of the road is in violation of this chapter. These sections of the Code are adopted by reference:

- |    |         |  |
|----|---------|--|
| 1. | 321.98  | Operation without registration.                    |
| 2. | 321.180 | Violations of instruction permit limitations.      |
| 3. | 321.193 | Violation of conditions of restricted license.     |
| 4. | 321.194 | Violation of conditions of minor's school license. |
| 5. | 321.216 | Unlawful use of license.                           |



6. 321.218 Driving without a valid license (as to simple misdemeanor offenses only).
7. 321.219 Permitting unauthorized minor to drive.
8. 321.220 Permitting unauthorized person to drive.
9. 321.229 Failure to comply with lawful order of peace officer.
10. 321.231 Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).
11. 321.232 Radar jamming devices.
12. 321.234 Failure to observe seating requirements.
13. 321.236 (Parking) Violation of local ordinance (not a state offense).
14. 321.256 Failure to obey traffic control device.
15. 321.257 Failure to obey or yield to pedestrian or to official traffic control signal.
16. 321.260 Unlawful possession of, or interference with traffic control device.
17. 321.264 Striking unattended vehicle.
18. 321.265 Striking fixtures upon a highway.
19. 321.275 Motorcycle and motorized bicycles violations.
20. 321.277 Reckless driving.
21. 321.278 Drag racing prohibited.
22. 321.285 Speed restrictions.
23. 321.286 Truck speed limits (highway).
24. 321.287 Bus speed limits (highway).
25. 321.288 Failure to maintain control.
26. 321.294 Failure to maintain minimum speed when directed by officer.
27. 321.295 Excessive speed on bridge.
28. 321.297 Driving on wrong side of two-way highway.
29. 321.298 Failure to yield half of roadway upon meeting vehicle.
30. 321.299 Passing on wrong side.
31. 321.303 Unsafe passing.
32. 321.304 Unlawful passing.
33. 321.305 Violating one-way traffic designation.
34. 321.306 Improper use of lanes.
35. 321.307 Following too closely.
36. 321.308 Following too closely (trucks and towing vehicles).
37. 321.309 Failure to use approved drawbar.
38. 321.310 Unlawful towing of four-wheeled trailer.
39. 321.311 Turning from improper lane.
40. 321.312 Making U-turn on curve or hill.
41. 321.313 Unsafe starting of a stopped vehicle.
42. 321.314 Unsafe turn or failure to give signal.
43. 321.315 Failure to give continuous turn signal.
44. 321.316 Failure to signal stop or rapid deceleration.
45. 321.317 Signal light requirements; see equipment violation.
46. 321.318 Incorrect hand signal.
47. 321.319 Failure to yield to vehicle on right.
48. 321.320 Failure to yield upon left turn.
49. 321.321 Failure to yield upon entering through highway.
50. 321.322 Failure to obey stop or yield sign.
51. 321.323 Unsafe backing on highway.

- 52. 321.324 Failure to yield to emergency vehicle.
- 53. 321.325 Pedestrian disobeying traffic control signal.
- 54. 321.326 Pedestrian walking on wrong side of highway.
- 55. 321.327 Pedestrian right-of-way.
- 56. 321.328 Pedestrian failing to use crosswalk.
- 57. 321.329 Vehicle failing to yield to pedestrian.
- 58. 321.331 Soliciting ride from within roadway.
- 59. 321.332 Unlawful use of white cane.
- 60. 321.333 Failure to yield to blind person.
- 61. 321.340 Driving in or through safety zone.
- 62. 321.341 Failure to properly stop at railroad crossing.
- 63. 321.342 Failure to obey stop sign at railroad crossing.
- 64. 321.343 Failure to stop certain cargo or passenger vehicle at railroad crossing.
- 65. 321.344 Unlawful movement of construction equipment across railroad track.
  
- 66. 321.353 Unsafe entry into sidewalk or roadway.
- 67. 321.354 Stopping on traveled part of highway.
- 68. 321.358 Stopping, standing, or parking where prohibited.
- 69. 321.360 Prohibited parking in front of certain buildings.
- 70. 321.361 Parking too far from curb/angular parking.
- 71. 321.362 Parking without stopping engine and setting brake.
- 72. 321.363 Driving with obstructed view or control.
- 73. 321.365 Coasting upon downgrade.
- 74. 321.366 Improper use of median, curb, or controlled access facility.
- 75. 321.367 Failure to maintain distance fire-fighting vehicle.
- 76. 321.368 Crossing unprotected fire hose.
- 77. 321.369 Putting debris on highway/roadway.
- 78. 321.370 Removing injurious material.
- 79. 321.371 Clearing up wrecks.
- 80. 321.372 School bus provisions.
- 81. 321.377 Excessive speed of school bus.
- 82. 321.381 Driving or towing unsafe vehicle.
- 83. 321.382 Operating underpowered vehicle.
- 84. 321.383 Failure to display reflective device on slow-moving vehicles.
- 85. 321.384 Failure to use headlamps when required.
- 86. 321.385 Insufficient number of headlamps.
- 87. 321.386 Insufficient number of headlamps-motorcycles and motorized bicycles.
  
- 87. 321.387 Improper rear lamp.
- 88. 321.388 Improper registration plate lamp.
- 89. 321.389 Improper rear reflector.
- 90. 321.390 Reflector requirements.
- 91. 321.391 Improper type of reflector.
- 92. 321.392 Improper clearance lighting on truck or trailer.
- 93. 321.393 Lighting device color and mounting.
- 94. 321.394 No lamp or flag on rear-projecting load.
- 95. 321.395 Parking on certain roadways without parking lights.
- 96. 321.397 Improper light on bicycle.
- 97. 321.398 Improper light on other vehicle.

- 98. 321.402 Improper use of spotlight.
- 99. 321.403 Improper use of auxiliary driving lights.
- 100. 321.404 Improper brake light.
- 101. 321.408 Back-up lamps.
- 102. 321.409 Improperly adjusted headlamps.
- 103. 321.415 Failure to dim.
- 104. 321.419 Improper headlighting when night driving.
- 105. 321.420 Excessive number of driving lights.
- 106. 321.422 Lights of improper color-front or rear.
- 107. 321.423 Special light/signal provision.
- 108. 321.430 Defective braking equipment.
- 109. 321.431 Brake performance ability.
- 110. 321.432 Defective audible warning device.
- 111. 321.433 Unauthorized use of emergency audible warning devices on motor vehicle.
- 112. 321.434 Use of siren or whistle on bicycle.
- 113. 321.436 Defective or unauthorized muffler system.
- 114. 321.437 Mirrors.
- 115. 321.438 Windshields.
- 116. 321.439 Defective windshield wiper.
- 117. 321.440 Defective tires.
- 118. 321.441 Unauthorized use of metal tire or track.
- 119. 321.442 Unauthorized use of metal projection on wheels.
- 120. 321.444 Failure to use safety glass.
- 121. 321.445 Failure to maintain or use safety belts.
- 122. 321.446 Failure to secure child.
- 123. 321.449 Special regulations.
- 124. 321.450 Hazardous materials.
- 125. 321.454 Width and length violations.
- 126. 321.455 Excessive side projection of load – passenger vehicle.
- 127. 321.456 Excessive height.
- 128. 321.457 Excessive length.
- 129. 321.458 Excessive projection from front of vehicle.
- 130. 321.459 Excessive weight – dual axels (each over 2000 lb. over).
- 131. 321.460 Spilling loads on highways.
- 132. 321.461 Excessive tow-bar length.
- 133. 321.462 Failure to use required towing equipment.
- 134. 321.463 Maximum gross weight.
- 135. 321.466 Gross weight in excess of registered gross weight (for each 2000 lb. over).

## TRAFFIC CONTROL DEVICES

3-3-7 AUTHORITY TO INSTALL TRAFFIC-CONTROL DEVICES. The Superintendent of Public Utilities shall cause to be placed and maintained traffic-control devices when and as required under this chapter or other Ordinances of this City to make effective their provisions, and may so cause to be placed and maintained such additional, emergency, or temporary traffic-control devices for the duration of an emergency or temporary condition as traffic conditions may require, to regulate traffic under the traffic Ordinances of this City or under State law or to guide or warn traffic.

The Superintendent of Public Utilities shall keep a record of all traffic-control devices maintained by the department.

All traffic-control devices shall comply with current standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways at the time the control device is placed or erected.

(Code of Iowa, Sec. 321.255 and 321.256)

3-3-8 MAYOR AND COUNCIL TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES. The Mayor and Council are hereby authorized:

1. To designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks at intersections where, due to traffic conditions, there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.
2. To mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic Code of this City. Where traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of a lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

3-3-9 PLAY STREETS. The City Council has the authority to declare any street or part thereof a play street and to cause placement of 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 the street or any portion thereof except drivers of vehicles having business or whose residences are within the closed area, and then the driver shall exercise the greatest care in driving upon the street or portion thereof.

## SPEED REGULATIONS

3-3-10 CHANGING STATE SPEED LIMITS IN CERTAIN ZONES. It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by State law upon the following streets or portions thereof is greater or less than is necessary for the safe operation of vehicles thereon, and it is declared that the maximum speed limit upon these streets or portions thereof described shall be as follows:

1. Special 35 MPH speed zone:
  - a. Iowa Highway 175, from the east corporate line to Walnut Street.
  - b. Iowa Highway 39, from the south corporate line to Iowa Highway 175
  - c. West Highway from Second Street to Eight Street
2. Special 45 MPH speed zone:
  - a. Iowa Highway 175, from Walnut Street westbound to Station 65 50
3. Special 55 MPH speed zone:
  - a. County Road M-43 from a line eight hindered (800) feet north of Richland Avenue to the north corporate line.
4. The speed limit shall be twenty miles per hour (20 MPH) in the downtown business district.
5. The speed limit shall be twenty-five miles per hour (25 MPH) in any residential and school district unless otherwise excepted.

(Code of Iowa, Sec. 321.290)

## TURNING MOVEMENTS

3-3-11 TURNING MARKERS, BUTTONS AND SIGNS. The City Council may cause markers, buttons, or signs to be placed within or adjacent to intersections, and thereby require and direct, as traffic conditions require, that a different course from that specified by the State law be traveled by vehicles turning at intersections, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by the markers, buttons, or signs, including right-hand turns at intersections with automatic traffic signals.

(Code of Iowa, Sec. 321.311)

3-3-12 AUTHORITY TO PLACE RESTRICTED TURN SIGNS. The City Council are authorized to determine those intersections, as traffic conditions require, at which the drivers of vehicles shall not make a right or left turn. The making of turns may be prohibited between certain hours of any day, in which event the same shall be plainly indicated on signs.

3-3-13 OBEDIENCE TO NO-TURN SIGNS. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.

3-3-14 "U" TURNS. It shall be unlawful for a driver to make a "U" turn except at an intersection. "U" turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals.

## ONE-WAY STREETS AND ALLEYS

3-3-15 AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS. Whenever any traffic Code of this City designates any one-way street or alley the City Council shall cause to be placed and maintained signs giving notice thereof and the regulation shall not be effective unless the signs are in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers or other devices placed in accordance with this section.

3-3-16 ONE-WAY STREETS AND ALLEYS. Upon the following streets and alleys vehicular traffic shall move only in the indicated direction:

1. None.

3-3-17 AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS. The City Council is authorized to determine certain streets, or specified lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall, upon authority given by Ordinance, place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. Members of the Sheriff's Department may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers, or other devices placed in accordance with this section.

The following streets may have variable laning or direction of traffic at different times of day as marked by authorized signs under the provisions of this section:

## SPECIAL STOPS REQUIRED

3-3-18 THROUGH HIGHWAYS. Streets or portions of streets described below are declared to be through highways:

(Code of Iowa, Sec. 321.345 and 321.350)

3-3-19 AUTHORITY TO ERECT STOP SIGNS. Whenever any Ordinance of this City designates and describes a through highway it shall be the duty of the Superintendent of Public Utilities to cause to be placed and maintained a stop sign on each and every street intersecting through highway except as modified in the case of intersecting through highways.

3-3-20 STOPS AT INTERSECTING THROUGH HIGHWAYS AND OTHER INTERSECTIONS. At the intersections of through highways and at intersections upon streets other than through highways, where, because of heavy cross-traffic or other traffic conditions, particular hazard exists, the Members of the Sheriff's Department is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the Council, and, upon approval of the Council, shall erect an appropriate sign at every place where a stop or yield is required.

3-3-21 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.

3-3-22 SCHOOL STOPS. When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten 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 driver shall have passed such school site.

### **PEDESTRIANS' RIGHTS AND DUTIES**

3-3-23 PROHIBITED CROSSING. Pedestrians crossing a street in the business district shall cross in the crosswalks only.

(Code of Iowa, Sec. 321.327)

3-3-24 PEDESTRIANS ON LEFT. Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided pedestrians at all times when walking on or along a roadway, shall walk on the left side of the roadway.

(Code of Iowa, Sec. 321.326)

### **METHOD OF PARKING**

3-3-25 STANDING OR PARKING CLOSE 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 inches of the curb or edge of the roadway except as 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)

3-3-26 STANDING OR PARKING ON THE LEFT-HAND SIDE OF 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 inches of the curb or edge of the roadway except as provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

3-3-27 SIGNS OR MARKINGS INDICATING ANGLE PARKING. The City Council, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by Council resolution.

(Code of Iowa, Sec. 321.361)

3-3-28 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS. Upon those streets or portions of streets that 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 the signs and markings.

## STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES

### 3-3-29 STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES.

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

(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within an intersection.
4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. 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.
8. 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 signposted.
9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.
11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.
12. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer.
13. At any place where official signs or curb markings prohibit stopping, standing or parking.
14. Within ten (10) feet of the crosswalk at all intersections within the City.



15. In an alley under any fire escape at any time.

**3-3-30 AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING.** When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the City Council may cause curbs to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or sign-posted. It shall be unlawful for any person, other than after having first secured the permission of the City Council, to paint any curbing, sidewalk or street with yellow or orange colored paint or to erect "no parking" signs.

(Code of Iowa, Sec. 321.358(10))

**3-3-31 AUTHORITY TO IMPOUND VEHICLES.** Members of the Sheriff's Department are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the Sheriff's department, or otherwise maintained by the City, under the following circumstances:

1. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.
2. When any vehicle is left unattended upon a street and constitutes a definite hazard or obstruction to the normal movement of traffic.
3. When any vehicle is left parked upon a street for a continuous period of forty-eight hours or more. A diligent effort shall first be made to locate the owner. If the owner is found, the owner shall be given the opportunity to remove the vehicle.
4. When any vehicle is left parked in violation of a ban on parking during a snow emergency as proclaimed by the Mayor.

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

## **STOPPING, STANDING OR PARKING**

**3-3-32 PARKING SIGNS REQUIRED.** Whenever by this or any other chapter of this City Code any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the City Council to erect appropriate signs giving notice thereof and the regulations shall not be effective unless signs are erected and in place at the time of any alleged offense. When signs are erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.236)

**3-3-33 PARKING DURING SNOW EMERGENCY.** No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during any snow emergency proclaimed by the Mayor unless the snow has been removed or plowed from said

street, alley or parking area and the snow has ceased to fall, except the business district will be exempted until 2:00 AM during such events. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the forty-eight hour period after cessation of the storm except as above provided upon streets which have been fully opened.

This ordinance applies from November 1 to April 1 annually.

3-3-34 ALL-NIGHT PARKING PROHIBITED. No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, for a period of time longer than thirty minutes between the hours of 2 a.m. and 5 a.m. of any day.

3-3-35 TRUCK PARKING LIMITED. Trucks licensed for five tons or more shall not be parked at the following locations on the streets named:

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. All Night. Except in designated truck parking areas, no such vehicle shall be left unattended or parked anywhere in the City during the hours from six o'clock (6:00) p.m. to six o'clock (6:00) a.m. except for loading or unloading purposes, then not for a period of time longer than one ( 1 ) hour.
3. 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 nine o'clock ( 9:00) p.m. and seven o'clock ( 7:00) 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.
4. Sundays and Holidays. No such vehicles shall be parked upon any street or alley at any time on Sunday or the following designated holidays except for loading or unloading purposes, then not for a period longer than sixty (60) minutes. Holidays shall include Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Day and New Year's Day.
5. No person shall dolly down a camper, trailer, semitrailer, boat or other such vehicle onto a street and let it remain there.

### MISCELLANEOUS DRIVING RULES

3-3-36 VEHICLES NOT TO BE DRIVEN ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area.

3-3-37 CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of this City unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

3-3-38 PARKING FOR CERTAIN PURPOSES PROHIBITED. No person shall park a vehicle upon the roadway for the principal purpose of:

1. Displaying such vehicle for sale.
2. Displaying advertising.
3. Selling merchandise from the vehicle except in a duly established market place or when so authorized or licensed under the Ordinances of this City.
4. Storage or as junk or dead storage for more than forty-eight hours.

3-3-39 DRIVING THROUGH FUNERAL OR OTHER PROCESSION. No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

3-3-40 DRIVERS IN A PROCESSION. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

3-3-41 FUNERAL PROCESSIONS TO BE IDENTIFIED. A funeral procession composed of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the County Sheriff's Department.

3-3-42 LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle licensed in excess of the amounts specified on the signs at any time upon any of the following streets within the City and none other:

3-3-43 TRUCK ROUTES.

1. Every motor vehicle licensed for five tons or more, having no fixed terminal within the City or making no scheduled or definite stops within the City for the purpose of loading or unloading, shall travel over or upon the following streets within the City and none other:
2. Any motor vehicle licensed for five tons or more, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading, shall proceed over or upon the designated routes set out in this section to the nearest point of its

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

3. 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.

#### 3-3-44 VEHICULAR NOISE.

1. It shall be unlawful for any person to make, continue or cause any disturbing, excessive or offensive noise which results in discomfort or annoyance to any reasonable person of normal sensitivity by means of radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in a motor vehicle.

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

#### 3-3-45 ENGINE AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.

2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

### BICYCLE REGULATIONS

3-3-46 DEFINITIONS. For the purpose of this Chapter the following terms are defined:

1. "Bicycles" shall mean either of the following:
  - a. A device having two wheels and having at least one saddle or seat for the use of a rider which is propelled by human power.
  - b. A device having two or more wheels with fully operable peddles and an electric motor less than seven hundred fifty watts (one horsepower), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden, is less than twenty miles per hour.

(Code of Iowa, Sec. 321.1)

3-3-47 TRAFFIC CODE APPLIES TO PERSONS RIDING BICYCLES. 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 drivers of vehicles by the laws of this State regarding rules of the road applicable to vehicles or by the traffic Ordinances of this City applicable to drivers of vehicles, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle such person shall be subject to all regulations applicable to pedestrians.

3-3-48 RIDING ON BICYCLES. A person propelling a bicycle shall not ride other than astride a permanent and regular seat.

No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

3-3-49 RIDING ON ROADWAYS AND BICYCLE PATHS. Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

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.

Whenever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

3-3-50 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

3-3-51 EMERGING FROM ALLEY OR DRIVEWAY. The operators of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

3-3-52 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.

3-3-53 PARKING. Bicycles shall be parked upon the roadway of a street against the curb, or upon the sidewalk in a rack to support bicycles, or against a building, or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

3-3-54 RIDING ON SIDEWALKS. No person shall ride a bicycle on a sidewalk within a business district.

When signs are erected on a sidewalk or roadway prohibiting the riding of bicycles on the sidewalk or roadway, no person shall disobey such signs.

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

3-3-55 LAMPS AND OTHER EQUIPMENT ON BICYCLES. Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type that is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

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

## SNOWMOBILES AND ALL-TERRAIN VEHICLES

### 3-3-56 DEFINITIONS.

1. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.
2. "All-Terrain Vehicle" "All-Terrain Vehicle" or "ATV" means a motorized flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, that is limited in engine displacement to less than eight hundred ( 800) cubic centimeters and in total dry weight to less than seven hundred fifty ( 750) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

(Code of Iowa, Sec. 321G.

3. "Operate" means to control the operation of a snowmobile.
4. "Operator" means a person who operates or is in actual control of a snowmobile.

3-3-57 PERMITTED AREAS OF OPERATION. ATVs and Snowmobiles will be allowed to operate in the City as follows:

1. Streets. ATV's and snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the council.
2. Exceptions. ATVs and snowmobiles may be operated on prohibited streets only under the following circumstances:
  - a. Emergencies. ATV's and snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.
  - b. When operated, ATVs and snowmobiles may make a direct crossing of a prohibited street provided:

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

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

3-3-58 REGULATIONS. It shall be unlawful for any person to operate a snowmobile under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.
2. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.
3. ATV's and snowmobiles shall not be operated on an operating railroad right-of-way. An ATV or snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the
4. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
5. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.
6. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.
7. Within the right-of-way of any public street or alley within the City unless the operator shall have a valid driver's license; or an instruction permit and accompanied by a qualified licensed driver.
8. On any public sidewalks or within the portion of the street between the curb line and the sidewalk, or property line commonly referred to as the "parking" except when crossing the same to a public street upon which operation is authorized by this chapter.

9. No person shall operate a snowmobile in the City from eleven-o'clock (11:00) p.m. to eight-o'clock (8:00) a.m., except for emergency situations and for the loading and unloading of an ATV or snowmobile from another vehicle or trailer.

10. Snowmobiles shall not be operated during a publicized thaw ban in areas posted to prohibit such operation.

### 3-3-59 EQUIPMENT REQUIRED.

1. All snowmobiles operated within the City shall have the following equipment:

a. Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.

b. Adequate brakes in good operating condition and at least one headlight and one taillight in good operating condition.

c. A safety or so-called "dead-man" throttle in operating condition; a safety or "dead-man" throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from the driving track.

3-3-60 UNATTENDED VEHICLES. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

3-3-61 RESTRICTION OF OPERATION. The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

3-3-62 TRAFFIC REGULATION. Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

3-3-63 GENERAL REGULATIONS. No person shall operate an ATV or snowmobile within the City in violation of the provisions of the Code of Iowa or rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, numbering, equipment and manner of operation. .

3-3-64 NEGLIGENCE. The owner and operator of a UTV is liable for any injury or damage occasioned by the negligent operation of the UTV.

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

3-3-65 ACCIDENT REPORT. Whenever a UTV is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report within seventy-two (72) hours, in accordance with State law. If a snowmobile is involved in an accident resulting in injury or death to anyone or property damage



amounting to one thousand dollars or more, either the operator or someone acting for the operator shall immediately notify the county sheriff or another law enforcement agency in the state.  
(Code of Iowa, Sec. 321.266)

3-3-66 VIOLATIONS. Any person who violates this article shall be punished as provided in this Chapter or according to the Iowa Code.  
(Code of Iowa, Sec. 3211)

## OFF-ROAD UTILITY VEHICLES

3-3-67 DEFINITIONS.

1. "Off-road utility vehicle" means a motorized flotation-tire vehicle with not less than four and not more than six low-pressure tires that is limited in engine displacement to less than one thousand five hundred cubic centimeters and in total dry weight to not more than one thousand eight hundred pounds and 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 lever for control.  
(Code of Iowa, Sec. 321I.1(1))

3-3-68 GENERAL REGULATIONS. No person shall operate UTV's within the city in violation of the provisions of chapter 321 G of the Code of Iowa or rules established by the Natural Resources Commission of the Department of Natural Resources governing their registration, numbering, equipment and manner. of operation.  
(Code of Iowa, CH. 3210)

3-3-69 OPERATION. The Operators of UTVs shall comply with the following restrictions as to where and how the UTV' s may be operated within the City:

1. UTV may be operated on streets within the corporate limits of the City only if the operator and the vehicle comply with the provisions of this section.
2. UTV may be operated in accordance with the following:
  - a. It shall not be operated at a speed in excess of (25) twenty-five miles per hour.
  - b. It shall be equipped with adequate break system/lights, headlights, taillights and rear view mirror in good operating condition.
  - c. It shall have adequate muffler system in good working condition.
  - d. The operator must have a valid drivers license and be 16 years of age or older.
  - e. It shall have a permit & sticker issued by the City Clerk permitting operation within the corporate limits of the City along with paying a permit fee annually.

- f. A valid drivers license and proof of liability insurance (not home owners insurance) must be carried while in operation.

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

(Code of Iowa, Sec. 321G.13 [8] and Sec. 3211.10)

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

3-3-70 PERMIT. In order to obtain a permit to operate a UTV within the corporate limits of the City, an applicant must make a biannual application therefore at the office of the City Clerk and provide the following information:

1. Name and address of the applicant.
2. Proof of liability insurance (other than home owners) for the UTV to be operated within the City by the applicant.
3. Proof of county registration.
4. Valid driver's license issued by the State of Iowa.
5. Year, make, model, color, engine. size and vehicle identification number (VIN) of the utility type vehicle(s) to be within the City by the applicant.
6. Additionally, the UTV must have the following items in working order:
  - a. At least one working headlight and taillight.
  - b. A working break light.
  - c. At least one rearview mirror.
  - d. A working seatbelt.
  - e. A break system maintained in good operating condition.
  - f. A muffler system in good working condition properly attached to the UTV which reduces the noise of operation of the motor to the minimum necessary for operation. The muffler shall not be audible for a distance of more than five hundred (500) feet. No person shall use a muffler cutout; by pass, straight pipe, or similar device.
  - g. A United States Forest Service qualified spark arrester.
7. Upon compliance with sections (1) and (2) herein, and payment of an application/permit fee of \$40.00 for two years, which fee may be amended from time to time by resolution of the City Council, the City Clerk shall issue the applicant a permit to operate the designated vehicle(s) within the corporate limits of the City and a permit sticker to be attached to the vehicle.

8. Permits to operate the vehicle shall be valid from: the date of issuance for two years or until midnight on the 31st day of December of the following year.
9. The permit sticker shall be prominently displayed on the rear of the fender or similar component of the operator's UTV.

3-3-71 TRAFFIC REGULATIONS. The operator of a UTV within the corporate limits of the City shall comply with, and is subject to, all traffic regulations of the City and the State of Iowa, including but not limited to, those laws, ordinance, or regulations pertaining to the operation or being in actual physical control of a motor vehicle while under the influence of alcoholic liquor or of any drug.

3-3-72 REVOCATION OF PERMIT. Violations of these provisions shall be punishable as set forth in the City Ordinance. In addition, any person receiving three (3) or more citations within a twelve (12) month period shall, upon conviction of the third or subsequent offense, have his or her permit to operate a UTV within the City limits revoked for a period of one (1) year from the date of conviction. Upon completion of the revocation period, said person must reapply for a permit in order to operate a UTV within City limits.

3-3-73 NEGLIGENCE. The owner and operator of a UTV is liable for any injury or damage occasioned by the negligent operation of the UTV.

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

3-3-74 ACCIDENT REPORT. Whenever a UTV is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report within seventy-two (72) hours, in accordance with State law. If a snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars or more, either the operator or someone acting for the operator shall immediately notify the county sheriff or another law enforcement agency in the state.

(Code of Iowa, Sec. 321.266)

3-3-75 VIOLATIONS. Any person who violates this article shall be punished as provided in this Chapter or according to the Iowa Code.

(Code of Iowa, Sec. 3211)

## GOLF CARTS

3-3-76 DEFINITIONS. For use in this ordinance “golf cart” is defined as a motorized 4-wheeled vehicle designed to transport person(s) on a golf course.

3-3-77 OPERATION OF GOLF CARTS. Golf carts may be operated on City streets by persons possessing a valid driver’s license and proof of insurance. The application for a permit shall set forth that the applicant meets the requirements of this section, the proposed routes of the applicant, and a compelling need for issuance of the permit. The City Council may impose restrictions and conditions in addition to those set forth in this section and may deny an application when a compelling need for the permit is not demonstrated. A golf cart shall not be operated upon a City street which is a primary road extension, i.e., State or Federal highway, but shall be allowed to cross a City street which is a primary road extension through the City. The golf cart shall be equipped with adequate brakes, a slow-moving vehicle sign, and a bicycle safety flag. The golf cart shall be operated only on the streets from sunrise to sunset. Golf carts operated on City streets need not be registered under Chapter 321 of the Code of Iowa

3-3-78 PERMIT REQUIRED. Upon compliance with sections 3-3-77, and payment of an application/permit fee of \$40.00 for two years, of which may be amended from time to time by resolution of the City Council. The City Clerk shall issue the applicant a permit to operate the designated vehicle(s) within the corporate limits of the City and a permit sticker to be attached to the vehicle. Permits to operate the vehicle shall be valid from: the date of issuance for two years or until midnight on the 31st day of December of the following year. The permit sticker shall be prominently displayed on the rear of the fender or similar component of the operator's golf cart.

## PENALTIES AND PROCEDURE

3-3-79 NOTICE OF FINE PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a notice of parking fine giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear within thirty days, or to pay the local scheduled fine.

3-3-80 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

3-3-81 LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within thirty days of the violation, for the following parking violations:

1.	Overtime parking	\$5.00
2.	Prohibited parking	\$5.00
3.	No parking zone	\$5.00
4.	Blocking alley	\$5.00
5.	Illegal parking	\$5.00
6.	Street cleaning	\$5.00
7.	Snow removal ban	\$5.00
8.	Persons with disabilities parking	\$200.00

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

3-3-82 FAILURE TO PAY PARKING CITATIONS. If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within the thirty (30) days, the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event the penalty is not paid within five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 4 RAILROAD REGULATION

3-4-1	Definitions	3-4-4	Street Crossing Obstructions
3-4-2	Warning Signals	3-4-5	Maintenance of Crossings
3-4-3	Street Crossing Signs and Devices	3-4-6	Flying Switches

3-4-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. The term "railroad train" shall mean an engine or locomotive with or without cars, coupled thereto, operated on rails.

(Code of Iowa, Sec. 321.1(58))

2. The term "operator" shall mean any individual, partnership, corporation or other association that owns, operates, drives or controls a railroad train.

3-4-2 WARNING SIGNALS. Operators shall sound a bell at least 1,000 feet before a street crossing is reached and shall ring the bell continuously until the crossing is passed. Operators also shall sound a whistle at least 1,000 feet before reaching every intersection of the track and street, sidewalk, alley or similar public crossing within the City limits, unless such crossing is protected by a mechanical warning device or flagman as required under Section 3-4-5 of this chapter.

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

3-4-3 STREET CROSSING SIGNS AND DEVICES. Operators shall erect and maintain non-mechanical warning signs on both sides of the tracks at each intersection of the tracks and a street, sidewalk, alley or similar public crossing within the City limits, except where some mechanical sign, signal, device, or gate or flagman is required by resolution of the Council. Such non-mechanical signs shall be of a height and size, and utilize such lettering as to give adequate warning of such crossing. Whenever the City Council shall deem it necessary for the safety and convenience of the public that some mechanical sign, signal, device or gate should be erected and maintained, flagman stationed at any street or other public crossing, the City Council, by resolution, shall order and direct the railroad company or companies concerned to erect and maintain such sign, signal, device, or gate or to station a flagman at such crossing at the expense of such company or companies. Any required flagman shall be stationed at such crossing during the periods of time of each day that the City Council shall designate. The resolution shall specify the street or other public crossing at which the sign, signal, device or gate shall be erected or flagman stationed. After the resolution has been adopted, a copy shall be served the railroad company or companies with a notice of the time limit for compliance. In complying, Chapter 327G of the Code of Iowa shall prevail.

(Code of Iowa, Sec. 327G.15)

3-4-4 STREET CROSSING OBSTRUCTIONS. A railroad corporation or its employees shall not operate a train in such a manner as to prevent vehicular use of a highway, street, or alley for a period of time in excess of ten minutes except in any of the following circumstances:

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

1. When necessary to comply with signals affecting the safety of the movement of trains.
2. When necessary to avoid striking an object or person on the track.
3. When the train is disabled.
4. When necessary to comply with governmental safety regulations including, but not limited to, speed Ordinances and speed regulations.

An employee is not guilty of a violation 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.

3-4-5 MAINTENANCE OF CROSSINGS. Operators shall construct and maintain good, sufficient and safe crossings over any street traversed by their rails.

(Code of Iowa, Sec. 327G.15)

3-4-6 FLYING SWITCHES. No operator shall cause any railroad car or cars, unattached to any engine, to be propelled across any intersection of the tracks and a street, alley, sidewalk or similar public crossing, for the purpose of making a flying switch unless some employee of the railroad shall be stationed at the intersection to give warning of such car's or cars' approach.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 5 FIRE PROTECTION

- |       |                           |       |  |
|-------|---------------------------|-------|--|
| 3-5-1 | Establishment and Purpose | 3-5-4 | Worker's Compensation<br>and Hospitalization Insurance |
| 3-5-2 | Volunteer Fire Fighters   | 3-5-5 | Liability Insurance                                    |
| 3-5-3 | Fire Fighter's Duties     | 3-5-6 | Fires Outside City Limits                              |

3-5-1 ESTABLISHMENT AND PURPOSE. A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.

(Code of Iowa, Sec. 364.16)

3-5-2 VOLUNTEER FIRE FIGHTERS. Odebolt area residents, at least age eighteen (18) shall be appointed to serve as a volunteer fire fighter. Prior to appointment as a volunteer fire fighter and every four years thereafter a volunteer fire fighter must pass a medical physical examination.

(Code of Iowa, Sec. 362.10)

3-5-3 FIRE FIGHTER'S DUTIES. When called by the Fire Chief, all fire fighters shall report for duty immediately in the manner directed by the Fire Chief. All fire fighters shall be subject to call at any time. Fire Fighters shall obey strictly the commands of any other fire fighter who has been appointed by the Fire Chief to be in command temporarily. Fire fighters shall report for training as ordered by the Fire Chief.

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

3-5-4 WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE. The City Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters. All volunteer fire fighters shall be covered by the contract.

3-5-5 LIABILITY INSURANCE. The City Council shall contract to insure against liability of the City or members of the department for injuries, death or property damage arising out of and resulting from the performance of departmental duties.

3-5-6 FIRES OUTSIDE CITY LIMITS. The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits or pursuant to an agreement with the County or Township.

(Code of Iowa, Sec. 364.16)





## TITLE III COMMUNITY PROTECTION

### CHAPTER 6 CURFEW FOR MINORS

3-6-1	Preamble	3-6-4	Offenses
3-6-2	Findings and Purpose	3-6-5	Defenses
3-6-3	Definitions	3-6-6	Enforcement

3-6-1 PREAMBLE. The City of Odebolt recognizes that all citizens including minors have certain inalienable rights and that among them are the rights of liberty and the pursuit of happiness. Further, all citizens including minors have the right to freedom of religion, freedom of speech, freedom of assembly, and of association. This section should be interpreted to avoid any construction that would result in the appearance of interference with the free exercise of religious worship and political association and this Ordinance shall not be construed to mean that the City intends to interfere with a minor's freedom of association for political, economic, religious, or cultural matters or association for purposes such as marches, demonstrations, picketing, or prayer vigils which are otherwise lawful and peaceful assemblies.

(Code of Iowa, Sec. 364.1)

3-6-2 FINDINGS AND PURPOSE. The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 18 in the City of Odebolt; and

Persons under the age of 18 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

The City of Odebolt has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities.

3-6-3 DEFINITIONS. In this chapter:

1. Curfew hours means 12:01 a.m. until 5:00 a.m.
2. Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of life.
3. Establishment means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.
4. Guardian means:

- a. A person who, under court order, is the guardian of the person of a minor; or
  - b. A public or private agency with whom a minor has been placed by a court.
5. Minor means any person under age 18 years of age.
6. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
7. Parent means a person who is:
- a. A biological parent, adoptive parent, or step-parent of another person; or
  - b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
8. Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
9. Remain means to:
- a. Linger or stay; or
  - b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
10. Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

#### 3-6-4 OFFENSES.

- 1. A minor commits an offense if the minor remains in any public place or on the premises of any establishment within the City during curfew hours.
- 2. A parent or guardian of a minor commits an offense if they knowingly permit, or by insufficient control allow, the minor to remain in any public place or on the premises of any establishment within the City during curfew hours.
- 3. The owner, operator, or any employee of an establishment commits an offense if they knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

### 3-6-5 DEFENSES.

1. It is a defense to prosecution under this chapter that the minor was:
  - a. Accompanied by the minor's parent or guardian;
  - b. On an errand at the direction of the minor's parent or guardian, without any detour or stop;
  - c. In a motor vehicle involved in interstate travel;
  - d. Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
  - e. Involved in an emergency;
  - f. On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the Sheriff's Department about the minor's presence;
  - g. Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Odebolt, a civic organization, or another similar entity that takes responsibility for the minor, or going to or returning home without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of Odebolt, a civic organization, or another similar entity that takes responsibility for the minor;
  - h. Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or
  - i. Married or had been married.
2. It is a defense to prosecution under Subsection 3-6-4(3) that the owner, operator, or employee of an establishment promptly notified the Sheriff's Department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

### 3-6-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3-6-5 is present.

2. A minor who is in violation of this Ordinance shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by a member of the Sac County Sheriff's Department.

"Editor's Note: The courts have carefully scrutinized curfew Ordinances and before enacting such an Ordinance, you should consult with your City Attorney. See Maquoketa v. Russell, 484 NW2d, 179 (Iowa 1992) and Quit v. Strauss, 8 F2d 260 (1993)."

TITLE III COMMUNITY PROTECTION

CHAPTER 7 REGULATING PEDDLERS, SOLICITORS  
AND TRANSIENT MERCHANTS

3-7-1	Purpose	3-7-9	Display of License
3-7-2	Definitions	3-7-10	License Not Transferable
3-7-3	License Required	3-7-11	Time Restriction
3-7-4	License Exemptions	3-7-12	Revocation of License
3-7-5	Religions and Charitable Organizations	3-7-13	Notice
3-7-6	Application for License	3-7-14	Hearing
3-7-7	Bond Required	3-7-15	Record and Determination
3-7-8	License Issued	3-7-16	Appeal
		3-7-17	Effect of Revocation

3-7-1 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.

3-7-2 DEFINITIONS. For use in this chapter the following terms are defined:

1. A "peddler" is any person carrying or transporting 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. A "solicitor" is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date.
3. A "transient merchant" includes every merchant, whether an individual person, a firm, corporation, partnership, or association, who brings or causes to be brought within the municipality any goods, wares, or merchandise of any kind, nature, or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer, for conducting such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader, or auctioneer, does not exempt any such person, firm, or corporation from being considered a transient merchant.

The provisions of this chapter shall not be construed to apply to persons selling at wholesale to merchants, nor to persons running a huckster wagon, or selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, nor to persons selling their own work or production either by themselves or their employees.

3-7-3 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 shall be in violation of this chapter.

3-7-4 EXEMPTIONS. The following are excluded from the application of this chapter:

1. Newspapers. News boys and girls.
2. Club Members. Members of local Boy Scout, Girl Scout, campfire Girls, 4-H Clubs, Future Farmers of America and similar organizations.
3. Farmers. Farmers who offer for sale products of their own raising
4. Students. Students representing the Odebolt-Arthur Community School District conducting projects sponsored by organizations recognized by the school.
5. Food Deliveries. Food delivery men and women 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.

3-7-5 RELIGIOUS AND CHARITABLE ORGANIZATIONS. Authorized representatives of religious and charitable organizations desiring to solicit money or to distribute literature shall be exempt from the operation of Sections 3-7-6 through 3-7-14. All such organizations shall be 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 shall find that the organization is a bona fide charity or religious 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 3-7-16 of this chapter.

3-7-6 APPLICATIONS 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.

All solicitors and peddlers shall comply with the State law, Section 555A.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service and, comply with the other requirements of the law.

3-7-7 BOND REQUIRED. Before a license under this chapter shall be 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 81A of the Code of Iowa.

3-7-8 LICENSE ISSUED. If the Mayor 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.

3-7-9 DISPLAY OF LICENSE. Each solicitor or peddler shall at all times while doing business in the City keep in such person's possession the license provided for in Section 161.08 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.

3-7-10 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.

3-7-11 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses shall be in force and effect only between the hours of eight o'clock (8:00) a.m. and six o'clock (6:00) p.m.

3-7-12 REVOCATION OF LICENSE. After notice and hearing, the City 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.

3-7-13 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.

3-7-14 HEARING. The Mayor 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 Mayor may proceed to a determination of the complaint.

3-7-15 RECORD AND DETERMINATION. The Mayor 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 Mayor finds clear and convincing evidence of substantial violation of this chapter or state law.

3-7-16 APPEAL. If the Mayor revokes or refuses to issue a license, the Mayor 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 Mayor by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

3-7-17 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.





**TITLE III COMMUNITY PROTECTION**

**CHAPTER 8 RESERVED**



## TITLE III COMMUNITY PROTECTION

### CHAPTER 9 ALCOHOLIC BEVERAGES

- |  |                         |
|--|-------------------------|
| 3-9-1 Purpose  | 3-9-3 Action by Council |
| 3-9-2 Required Obedience to Provisions of this Chapter and State Law | 3-9-4 Transfers         |

3-9-1 PURPOSE. The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.

(Code of Iowa, Sec. 364.1)

3-9-2 REQUIRED OBEDIENCE TO PROVISIONS OF THIS CHAPTER AND STATE LAW. The following sections of the Iowa Code are hereby adopted by reference:

1. 123.2 and 123.3 General Prohibition and Definitions
2. 123.18 Favors From Licensee or Permittee
3. 123.22 State Monopoly
4. 123.28 Open Alcoholic Beverage Containers
5. 123.30 Liquor Control Licenses - Classes
6. 123.31 Application Contents
7. 123.33 Records
8. 123.34 Expiration - License or Permit
9. 123.35 Simplified Renewal Procedure
10. 123.36 Liquor Fees - Sunday Sales
11. 123.38 Nature of Permit or License - Surrender - Transfer
12. 123.39 Suspension or Revocation of License or Permit - Civil Penalty
13. 123.40 Effect of Revocation
14. 123.44 Gifts of Liquors Prohibited
15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test - Notifications - Exoneration

16. 123.47 Persons Under Legal Age - Penalty
17. 123.49 Miscellaneous Prohibitions
18. 123.50 Criminal and Civil Penalties
19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer
20. 123.52 Prohibited Sale
21. 123.90 Penalties Generally
22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings
23. 123.122 through 123.145 Beer Provisions (Division II)
24. 123.150 Sunday Sales Before New Year's Day
25. 123.171 through 123.182 Wine Provisions (Division V)
26. 321.284 Open Containers in Motor Vehicles - Drivers
27. 321.284A Open Containers in Motor Vehicles - Passengers

3-9-3 ACTION BY COUNCIL. The City Council shall approve or disapprove the application. Action taken by the City Council shall be endorsed on the application. The application, fee, penal bond, and certificate of dram shop liability insurance (if applicable) shall be forwarded to the Iowa Alcoholic Beverages Division for further action as provided by law.

(Code of Iowa, Sec. 123.32(2))

3-9-4 TRANSFERS. The City Council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the City, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and the transfer will not result in the violation of any law or Ordinance. An applicant for a transfer shall file with the application for transfer proof of dram shop liability insurance and penal bond covering the premises to which the license is to be transferred.

(Code of Iowa, Sec. 123.38)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 10 JUNK AND ABANDONED VEHICLES

3-10-1 Purpose	3-10-8	Junk Vehicles Declared a Nuisance
3-10-2 Definitions		
3-10-3 Removal of Abandoned Vehicles	3-10-9	Notice to Abate
3-10-4 Notification of Owners and Lienholders	3-10-10	Abatement by Municipality
3-10-5 Impoundment Fees and Bonds	3-10-11	Collection of Cost of Abatement
3-10-6 Hearing Procedures	3-10-12	Exceptions
3-10-7 Auction or Disposal of Abandoned Vehicle	3-10-13	Interference with Enforcement

3-10-1 PURPOSE. The purpose of this chapter is to protect the health, safety, and welfare of the citizens and safety of property of this City by providing for removal of abandoned motor vehicles and the elimination of the open storage of abandoned and junk motor vehicles and machinery except in authorized places.

(Code of Iowa, Sec. 3641.1)

3-10-2 DEFINITIONS. For the purpose of this chapter, the following terms are defined as follows:

1. "Abandoned vehicle" means any of the following:
  - a. A vehicle that has been left unattended on public property for more than twenty-four hours and lacks current registration plates or two or more wheels or other parts which render the vehicle inoperable; or unsafe or
  - b. A vehicle that has remained illegally on public property for more than twenty-four hours; or
  - c. A vehicle that has been unlawfully parked on private property or has been placed on private property without the consent of the owner or person in control of the property for more than twenty-four hours; or
  - d. A vehicle that has been legally impounded by order of the Sheriff's Department and has not been reclaimed for a period of ten days; or
  - e. Any vehicle parked on the street determined by the Sheriff's Department to create a hazard to other vehicular traffic.

(Code of Iowa, Sec. 321.89(1)(b))

2. "Private property" means any real property within the City which is not public property as defined in this section.

3. "Public property" means any public right-of-way open for the purposes of vehicular travel.

4. A "junk vehicle" means any vehicle without current license plates or which has any one of the following characteristics:

- a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.
- b. Any vehicle with a broken or loose fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.
- c. Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects.
- d. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable.
- e. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)

5. "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 shall include without limitation a motor vehicle, automobile, truck, trailer, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

### 3-10-3 REMOVAL OF ABANDONED VEHICLES.

1. The County Sheriff's Department or Mayor may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-10-2 (1). The County Sheriff's Department or Mayor may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.

2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council.

3. When a vehicle is taken into custody and impounded under the provisions of this chapter, a member of the County Sheriff's Department or Mayor if the Sheriff's Department is unavailable, shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

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

4. Nothing in this chapter shall govern the procedures of any police officer in taking into custody and impounding any vehicle to be used or proposed to be used as evidence in a criminal case involving crimes other than violations of this chapter.

#### 3-10-4 NOTIFICATION OF OWNERS AND LIENHOLDERS.

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, a member of the Sheriff's Department or Mayor if a member of the Sheriff's Department is unavailable, shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:

- a. Describe the year, make, model, and serial number of the vehicle.
- b. Describe the personal property found in the vehicle.
- c. Describe the location of the facility where the vehicle is being held.
- d. Inform the persons receiving notice:
  - (1) Of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice;
  - (2) That the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;
  - (3) That failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle;
  - (4) That failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.
- e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Mayor or member of the Sheriff's Department or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-10-6.
- f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten day reclaiming period.



g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-10-5.

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

2. The owner, lienholders or any person receiving notice may, by written request received by a member of the Sheriff's Department prior to the expiration of the ten day reclaiming period, obtain an additional fourteen days within which the vehicle may be reclaimed.

(Code of Iowa, Sec. 321.89(3)(c))

3. Notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet the requirements of this chapter. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and shall contain the same information as prescribed for mailed notice in this section. Published notice shall be used if:

- a. the identity of the last registered owner cannot be determined, or
- b. the registration contains no address for the owner, or
- c. it is impossible to determine with reasonable certainty the identity and address of all lienholders.

(Code of Iowa, Sec. 321.89(3)(b))

4. If the persons receiving notice do not request a hearing or exercise their right to reclaim the vehicle or personal property within the reclaiming period, the owner of the vehicle or owners of the personal property shall no longer have any right, title, claim, or interest in or to the vehicle.

5. No court in any case in law or equity shall recognize any right, title, claim, or interest of the owner and lienholders after the ten day reclaiming period.

(Code of Iowa, Sec. 321.89(3))

### 3-10-5 IMPOUNDMENT FEES AND BOND.

1. Before the owner or other person lawfully entitled to possession of any vehicle that has been impounded under the provisions of this chapter or any other provision of law may recover such vehicle, such person shall present to the Sheriff's Department or Mayor if the Sheriff's Department is unavailable, evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, and shall pay the costs of:

- a. an impoundment fee
- b. towing charges
- c. preservation charges

- d. storage charges
- e. notice charges

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

2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.

3. If a hearing is requested under Section 3-10-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:

- a. the fees required by Section 3-10-5(1)
- b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

### 3-10-6 HEARING PROCEDURES.

1. The registered owner, any lienholder of record, or duly authorized agents thereof, may object to the legality of the impoundment or the assessment of fees and request a hearing thereon. No person shall be entitled to more than one hearing on each impoundment. Upon receipt of a timely objection to the impoundment, the objector shall be informed of the reason for the impoundment and a hearing shall be held, without unnecessary delay, before the City Council pursuant to 1-4-1 at seq.

(Code of Iowa, Sec. 321.89(3))

3-10-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The Mayor or Sheriff's Department shall follow the procedures in State law for the auction or disposal of abandoned vehicles.

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

3-10-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Odebolt, Iowa, 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 vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

### 3-10-9 NOTICE TO ABATE.

1. Whenever the Sheriff's Department or Mayor if the Sheriff's Department is unavailable, shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, the Mayor or Sheriff's Department shall notify, by certified mail with five days' return receipt, the following persons:

- a. the owner of the property.

- b. the occupant of the property.
2. The notice to abate shall:
- a. describe, to the extent possible, the year, make, model, and color of the vehicle.
  - b. describe the location of the vehicle.
  - c. state that the vehicle constitutes a nuisance under the provisions of this chapter.
  - d. state that the owner of the property shall remove or repair the said junk vehicle within ten days.

3-10-10 ABATEMENT BY MUNICIPALITY. If the person notified to abate a nuisance or condition neglects or fails to abate as directed, the City may perform the required action to abate, keeping an accurate account of the expense incurred. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the municipality.  
(Code of Iowa, Sec. 364.12(3)(h))

3-10-11 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred 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 the costs shall then be collected with, and in the same manner, as general property taxes.  
(Code of Iowa, Sec. 364.12(3)(h))

3-10-12 EXCEPTIONS. This chapter shall not apply to the following:

- 1. A vehicle in an enclosed building.
- 2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the Zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.
- 3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

3-10-13 INTERFERENCE WITH ENFORCEMENT. No person shall interfere in any way with the enforcement provision of this chapter.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 11 FIRE ZONE

3-11-1 Fire Zone Established	3-11-5 Reconstruction Prohibited
3-11-2 Plans Submitted	3-11-6 Special Permit
3-11-3 Buildings Prohibited	3-11-7 Removal of Buildings
3-11-4 Construction Standards	3-11-8 Storage of Materials Prohibited

3-11-1 FIRE ZONE ESTABLISHED. A Fire Zone is established to include all of the following territory:

All of Blocks 1, 4, 5 and Lots 1, 2, 9, 10, 11 in Block 2

3-11-2 PLANS SUBMITTED. It shall be unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire zone until a plan of the proposed work, together with a statement of materials to be used shall have been submitted to the Mayor, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

3-11-3 BUILDINGS PROHIBITED. The erection of any building or structure of any kind, or additions thereto, or substantial alterations thereof, involving partial rebuilding, are prohibited in the Fire zone, unless constructed in strict compliance with the provisions of this chapter.

3-11-4 CONSTRUCTION STANDARDS. The construction standards for all buildings, structures, or parts thereof within the Fire zone shall be of Type I, Type II, or, at a minimum, Type III - 1 hour fire resistant construction, as specified by the International Building Code adopted by the State of Iowa.

3-11-5 RECONSTRUCTION PROHIBITED. Any building within the Fire zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

3-11-6 SPECIAL PERMIT. The Mayor may, by four-fifths vote, issue a special permit to improve any property within the Fire zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six months from the date of such permission.

3-11-7 REMOVAL OF BUILDINGS. Any person who erects any building in the Fire zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of

the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

3-11-8 STORAGE OF MATERIALS RESTRICTED. No person shall have or deposit any hay stack, straw stack, grain stack, pile of rubbish, explosives, hazardous chemicals or other flammable substance within the Fire Zone, nor shall any person have or deposit any cord wood or fire wood, within the Fire Zone without written permission from the Mayor, specifying the maximum amount of such cord wood or fire wood, that may be kept, stored, or deposited on any lot or part of a lot within the Fire Zone, unless the same be within one of the buildings allowed by this chapter. No person shall build or allow any fires, whether trash fires or otherwise, within the Fire zone as described in this chapter.

## TITLE IV MENTAL AND PHYSICAL HEALTH

### CHAPTER 1 ANIMAL CONTROL

4-1-1	Definitions	4-1-5	Animal Nuisances
4-1-2	License	4-1-6	Impounding
4-1-3	Immunization	4-1-7	Dangerous Animals
4-1-4	At Large Prohibited	4-1-8	Keeping a Vicious Animal

4-1-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. The term "dogs" shall mean animals of the canine species whether altered or not.
2. The term "at large" shall mean any licensed or unlicensed animal found off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or "at heel" beside a competent person and obedient to that person's command.
3. The term "owner" shall mean any person owning, keeping, sheltering or harboring an animal.

4-1-2 LICENSE. Every owner of a dog over the age of six (6) months shall procure a dog license from the City Clerk-Treasurer on or before the first day of January of each year.

Upon providing proof of a current vaccination against rabies, the City Clerk-Treasurer shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the dog. The City Clerk-Treasurer shall keep a duplicate of each license issued as a public record.

Upon issuance of the license, the City Clerk-Treasurer shall deliver to the owner a metal tag stamped with the number of the license and the year for which it is issued. The license tag shall be securely fastened to a collar or harness which shall be worn by the dog for which the license is issued.

Any dog found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.

4-1-3 IMMUNIZATION. All dogs six (6) months or older shall be vaccinated against rabies. Before issuance of the license the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated, and that the vaccination does not expire within six (6) months from the effective date of the dog license. It shall be a violation of this Ordinance for any dog to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined.

(Code of Iowa, Sec. 351.33)

4-1-4 AT LARGE PROHIBITED. No owner or person having custody of an animal shall permit such animal to run at large.

(Code of Iowa, Sec. 351.41)

4-1-5 ANIMAL NUISANCES. It shall be unlawful for any person to permit an animal under such person's control or within such person's custody to commit a nuisance. An animal shall be considered a nuisance if it:

1. Damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.
2. Causes unsanitary, dangerous or offensive conditions.
3. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals.

(Code of Iowa, Sec. 657.1)

4-1-6 IMPOUNDING.

1. Any unlicensed or unvaccinated dog found at large or any licensed dog found at large in violation of Sections 4-1-3 and 4-1-4 of this chapter shall be seized and impounded, or, at the discretion of the Mayor, the owner may be served a summons to appear before a proper court to answer charges made thereunder.
2. Owners of licensed dogs shall be notified within two (2) days that upon payment of impounding fees, the dog will be returned. If the impounded licensed dogs are not recovered by their owners within seven (7) days after notice, the dogs shall be disposed of as provided in Section 717B.4 Code of Iowa.
3. Impounded unlicensed dogs may be recovered by the owner, upon proper identification, by payment of the license fee, impounding fee and boarding costs, and the costs of vaccination if vaccination is required by Section 4-1-3. If such dogs are not claimed within seven (7) days after notice, they shall be disposed of in a humane manner as directed by the City Council.

(Code of Iowa, Sec. 351.37)

4. Any animal found to have bitten a person or other animal shall be confined as directed by the Mayor."

(Code of Iowa, Sec. 351.39)

5. This section shall not apply to a law enforcement dog or horse used by the law enforcement agency, that is acting in the performance of its duties, which has bitten a person.

(Code of Iowa, Sec 351.39)

#### 4-1-7 DANGEROUS ANIMALS.

1. Dangerous Animals Prohibited. No person shall keep, shelter, or harbor for any purpose within the City limits, a dangerous animal.
2. Definitions. A dangerous animal is:
  - 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. The following are animals which shall be deemed to be dangerous animals per se:
    - (1) Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
    - (2) Wolves, coyotes, and foxes;
    - (3) Badgers, wolverines, weasels, skunks and mink;
    - (4) Raccoons;
    - (5) Bears;
    - (6) Monkeys, chimpanzees, and apes;
    - (7) Alligators and crocodiles;
    - (8) Scorpions; gila monsters;
    - (9) Snakes that are venomous or constrictors;
    - (10) Pit bulls meaning any dog that is an American Pit Bull Terrier, American Staffordshire Terrier, Staffordshire Bull Terrier, or any dog displaying the majority of physical traits of any one or more of the above breeds (more so than any other breed), or any dog exhibiting those distinguishing characteristics which substantially conform to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds.
    - (11) Any cross breed of such animals which have similar characteristics of the animals specified above.
  - c. Any animals declared to be dangerous by the City Council.
3. Dangerous Animals Exceptions. The keeping of dangerous animals shall not be prohibited in the following circumstances:



- a. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research or study, and has obtained the written approval of the City Council.

4-1-8 KEEPING A VICIOUS ANIMAL. It shall be unlawful for any person or persons to harbor or keep a vicious animal within the City. A vicious animal is deemed so when it shall have attacked or bitten any person without provocation, or when the propensity to attack or bite persons or other animals shall exist and such propensity is known or ought reasonably be known to the owner thereof.

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 member of the Sheriff's Department, 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 member of the Sheriff's Department shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous animal or vicious animal in the City, the officer shall order the person named in the complaint 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 the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering or harboring the dangerous or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the 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 or vicious animal issued by the 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 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. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the 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 officer, the Council shall order in its written decision that the individual or entity 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 immediately be served upon the person or entity against whom rendered in the same manner as the notice of removal. If the original order of the 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 officer is authorized to seize, impound or destroy such animal. Failure to comply with an order of the Mayor or Sheriff's Department issued pursuant hereto and not appealed, or of the council after appeal, shall constitute a simple misdemeanor.



## TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE

### CHAPTER 1 LIBRARY SERVICES

5-1-1	Public Library	5-1-6	Power to Contract with Others for the Use of the Library
5-1-2	Library Trustees	5-1-7	Non-Resident Use of the Library
5-1-3	Qualifications of Trustees	5-1-8	Library Accounts
5-1-4	Organization of the Board	5-1-9	Annual Report
5-1-5	Powers and Duties		

5-1-1 PUBLIC LIBRARY. There is hereby established a free public library for the City, to be known as the Odebolt Public Library.

5-1-2 LIBRARY TRUSTEES. The board of trustees of the Odebolt Public Library, hereinafter referred to as the board, consists of 7 members. All board members shall be appointed by the City Council. One member shall be a non-resident and live in the surrounding area outside of the Odebolt City Limits.

(Code of Iowa, Sec. 392.5)

5-1-3 QUALIFICATIONS OF TRUSTEES. All of the members of the board shall be bona fide citizens and residents of the City and all shall be over the age of eighteen (18).

5-1-4 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 July first. Appointments shall be made every two (2) years of one-third the total number as near as possible, to stagger the terms.

(Code of Iowa Sec. 336.5)

2. Vacancies. The position of any trustee shall be declared vacant if said trustee moves permanently from the City or if said trustee is absent from six (6) consecutive regular meetings of the board, except in the case of sickness or temporary absence from the City. Vacancies in the board shall be filled by the City Council, and the new trustee shall fill out the unexpired term for which the appointment is made.

(Code of Iowa Sec. 336.6)

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

(Code of Iowa Sec. 336.7)

5-1-5 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.

(Code of Iowa Sec. 336.8(1))

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

(Code of Iowa Sec. 336.8(2))

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

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

(Code of Iowa Sec. 336.8(3))

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

(Code of Iowa Sec. 336.8(4))

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

(Code of Iowa Sec. 336.8(5))

7. To authorize the use of the library by non-residents of the City and to fix charges therefor.

(Code of Iowa Sec. 336.8(6))

8. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with Ordinances and the law, for the care, use, government and management of the library and the business of the board, fixing and enforcing penalties for violations.

(Code of Iowa Sec. 336.8(7))

9. To have exclusive control of the expenditure of all funds allocated for library purposes by the City Council, and of all monies available by gift or otherwise for the erection of library buildings, and of all other monies belonging to the library including fines and rentals collected, under the rules of the board.

(Code of Iowa Sec. 336.8(8))

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.

(Code of Iowa, Sec. 336.8(9))

11. To keep a record of its proceedings.
12. To enforce the performance of conditions of gifts, donations, devises and bequests accepted by the City. The board shall enforce performance by taking action against the City Council.
13. To have authority to make agreements with the local County historical associations, where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for library purposes.

(Code of Iowa Sec. 336.17)

#### 5-1-6 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, any other City, school corporation, private or semi-private organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the library by their respective residents.

(Code of Iowa, Sec. 336.18(1))

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

(Code of Iowa, Sec. 336.18(2)(a and b))

#### 5-1-7 NON-RESIDENT USE OF THE LIBRARY. The board may authorize the use of the library by non-residents in any one or more of the following ways:

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

5. By entering into agreements with other libraries to allow lending of books or other library materials to non-residents.

5-1-8 LIBRARY ACCOUNTS. All money appropriated by the City 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.

5-1-9 ANNUAL REPORT. The board shall make a report to the City Council immediately after the close of the municipal fiscal year. This report shall contain statements of the condition of the library, the number of books added thereto, the number circulated, the amount of funds collected, and the amount of money expended in the maintenance of the library during the year, together with such further information required by the City Council.

Editor's Note: The Council may retain the power to hire, discharge, set salaries, expend funds unless the library board was in existence prior to July 1, 1974. (See Sections 5-1-5(4), 5-1-5(5), 5-1-5(9) and 5-1-8.

Any proposal to alter the composition, manner of selection, or charge of a library board, or to replace it with an alternate form of administrative agency, is subject to the approval of the voters of the City. See Code of Iowa, Sec. 392.5

## TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE

### CHAPTER 2 PARKS AND RECREATION AND SWIMMING POOL BOARD

5-2-1 Board Created	5-2-7 Organization
5-2-2 Organization	5-2-8 Authority of Board
5-2-3 Duties of the Board	5-2-9 Limitation of Authority
5-2-4 Reports	5-2-10 Reports
5-2-5 Rules	5-2-11 Liability Insurance
5-2-6 Establishment of Memorial Walk Committee	

5-2-1 BOARD CREATED. A Parks and Recreation and Swimming Pool 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 for the leisure time of the City's residents of all ages.

5-2-2 ORGANIZATION. The Board shall consist of seven (7) members appointed by the Mayor with the approval of the Council, one of whom shall be a member of the Council and said Council Member shall serve as chairperson of the Board during his or her tenure of office. The remaining six (6) members shall be appointed by the Mayor with the approval of the Council for overlapping three (3) year terms. Members shall serve without compensation, but may receive their actual expenses. Vacancies shall be filled in the same manner as original appointments.

5-2-3 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 shall have authority over the properties and personnel devoted to parks, swimming pool 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, swimming pool and recreation operations; and the Board shall cooperate with the Mayor in the allotment of time of the City employees for parks, swimming pool and recreation purposes. The chairperson of the Board shall order supplies by the procedures established by the Council for all departments of the City, and payments shall be made by warrant or check written by the Clerk for invoices submitted and approved by the Board.

5-2-4 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.

5-2-5 RULES. The Board shall have power to make rules and regulations for the use of parks, swimming pool 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 to the using public.

5-2-6 ESTABLISHMENT OF MEMORIAL WALK COMMITTEE. A Memorial Walk Committee consisting of at least 12 members is hereby created and established to carry out the



improvement to the area adjoining Willow Street in Blocks 15, 18 and 19, Second Addition to Odebolt, and Blocks 40 and 41, Fifth Addition to Odebolt.

5-2-7 ORGANIZATION. The committee shall consist of two members appointed by the Mayor with approval of the City Council, one of whom shall be the chairperson of the Park Board, two members appointed by the adjoining property owners, two members appointed by the Odebolt-Arthur School Board, two members appointed by the Odebolt Development Corporation, two members appointed by the Odebolt Chamber of Commerce, two members appointed by the Township Trustees, and as many additional members as the Committee shall deem necessary. The committee shall select its own officers and adopt its own rules of procedure.

5-2-8 AUTHORITY OF BOARD. The committee shall have authority to solicit funds for this project, to maintain its own bank accounts, and expend the monies it receives as donations or from promotional activities and to execute contracts for such expenditures.

5-2-9 LIMITATION OF AUTHORITY. The committee shall have no authority to bind or obligate the City in any manner to any agreement or contract.

5-2-10 REPORTS. The committee shall make written reports to the Board and to the Council from time to time as it deems advisable, or upon Council request.

5-2-11 LIABILITY INSURANCE. If the committee engages in any promotional activity involving unusual risk to participants or public, it shall clear such activity with City insurance carrier and City Council to avoid any possible uninsured claims.

(Passed Feb. 3, 1997 and published Feb. 13, 1997)

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 1 MOBILE HOME REGULATION

6-1-1	Definitions	6-1-4	Emergency and Temporary Parking
6-1-2	Location of Mobile Homes	6-1-5	Traffic Code Applicable
6-1-3	Special Permits for Location of Mobile Homes Outside Mobile Home Parks	6-1-6	Building Requirements
		6-1-7	Mobile Home Hookups

6-1-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. “Factory-built structure” means any structure 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. “Factory-built structure” includes the terms “mobile home,” “manufactured home”, and “modular home.”

(Code of Iowa, Sec. 103A.3(8))

2. “Manufactured home” means a factory-built structure built under authority of 42 U.S.C. Section 5403, that is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976.

(Code of Iowa, Sec. 435.1(3))

3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. Mobile homes were constructed before June 15, 1976.

(Code of Iowa, Sec. 435.1(5))

4. “Mobile home park” means a site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

(Code of Iowa, Sec. 435.1(6))

5. “Modular home” means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures.

(Code of Iowa, Sec. 435.1(7))

6-1-2 LOCATION OF MOBILE HOMES. All mobile homes shall be placed or parked in a mobile home park unless permitted otherwise by State law. This section shall not apply to mobile

homes parked or placed upon private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.

6-1-3 SPECIAL PERMITS FOR LOCATION OF MOBILE HOMES OUTSIDE MOBILE HOME PARKS. The City Council, upon application of a mobile home owner, may grant a permit for a mobile home to be located for a limited time on premises outside mobile home parks. The City Council shall issue such special permits when it appears that location within local mobile home park is impracticable or impossible and public health, safety, and welfare interests will not be seriously affected by granting the permit. Special permits shall not be granted for periods in excess of one year but upon expiration of a special permit reapplication may be made. Application for the permit shall include:

1. A statement concerning the practicability of location within a local mobile home park.
2. A description of sanitation facilities contained within the mobile home and those facilities available at the proposed location.
3. A statement of the desired duration of the special permit.
4. The name of the owner of the premises upon which the mobile home will be located together with the written approval from the owner of the premises where the mobile home will be located.
5. A description of the mobile home.
6. A statement of the desired duration of the special permit.

6-1-4 EMERGENCY AND TEMPORARY PARKING. Emergency or temporary parking of mobile homes upon the streets, alleys, or highways, or any other public or private place for a period not in excess of seven days shall not constitute a violation of 6-1-2, but such parking shall be subject to any prohibitions or regulations contained in other Ordinances of this City.

6-1-5 TRAFFIC CODE APPLICABLE. The owner of a mobile home park may elect to have City traffic provisions of the City Code apply to real property in the mobile home park and any person located on the real property. The owner of a mobile home park may waive this right by filing a waiver with the County Recorder.

6-1-6 BUILDING REQUIREMENTS. All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent perimeter foundation unless it is incompatible with the structural design of the home. Any home located outside a mobile home park on the date this ordinance takes effect shall be exempt from the permanent foundation requirement.

(Code of Iowa, Sec. 435.26)

6-1-7 MOBILE HOME HOOKUPS. A mobile home dealer or an employee of a mobile home dealer may perform water, gas, electrical, and other utility service connections in a mobile home space, or within ten feet of such space, located in a mobile home park, and the dealer or an

employee of the dealer may install a tie-down system on a mobile home located in a mobile home park.

(Code of Iowa, Sec. 322B.3)



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 2 UTILITIES - SANITARY SYSTEM

6-2-1	Definitions	6-2-5	Use of the Public Sewers
6-2-2	Use of Public Sewers Required	6-2-6	Protection from Damage
6-2-3	Private Sewage Disposal	6-2-7	Powers and Authority to Inspectors
6-2-4	Building Sewers and Connections	6-2-8	Penalties

6-2-1 DEFINITIONS. Unless the context specifically indicates otherwise, the meaning of terms used in this Ordinance shall be as follows:

1. "BOD" (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 C, expressed in milligrams per liter or parts per million.
2. "Building Drain" shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.  
(IAC 567-69.3(1))
3. "Building Sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.  
(IAC 567-69.3(1))
4. "Combined Sewer" shall mean a sewer receiving both surface runoff and sewage.
5. "Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sales of produce.
6. "Industrial Wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
7. "Natural Outlet" shall mean any outlet into watercourse, pond, ditch, or other body of surface or groundwater.
8. "Person" shall mean any individual, firm, company, association, society, corporation, or group.
9. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
10. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking, dispensing of food that has been shredded 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 (1.27 centimeters) in any dimension.

11. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
12. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
13. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.
14. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.
15. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
16. "Sewer" shall mean a pipe or conduit for carrying sewage.
17. "Slug" shall mean 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 of flows during normal operation.
18. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.
19. "Superintendent" shall mean the Superintendent of Public Utilities of the City of Odebolt or the Superintendent's authorized deputy, agent, or representative.
20. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
21. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

#### 6-2-2 USE OF PUBLIC SEWERS REQUIRED.

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.

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

3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

4. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, provided that said public sewer is within one hundred fifty (150) feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12(3)(f))  
(IAC 567-69.3(3))

#### 6-2-3 PRIVATE SEWAGE DISPOSAL.

1. Where a public sanitary or combined sewer is not available under the provision of Section 6-2-2(4), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

2. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent.

3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Superintendent.

4. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Natural Resources of the State of Iowa and the County Health Department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.



5. At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-2-2(4), a direct connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

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

6. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

7. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.

#### 6-2-4 BUILDING SEWERS AND CONNECTIONS.

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.

2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Superintendent.

Before a permit may be issued for excavating for plumbing in any public street, way or alley, the person applying for such permit shall have executed unto the City of Odebolt and deposited with the City Clerk a corporate surety in the sum of five thousand dollars (\$5,000.00) conditioned that the applicant will perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority of any Ordinances of the City of Odebolt pertaining to plumbing. This bond shall state that the person will indemnify and save harmless the City of Odebolt and the owner of the premises against all damages, costs, expenses, outlay and claims of every nature and kind arising out of unskillfulness or negligence on the applicant's part in connection with plumbing or excavating for plumbing as prescribed in this Ordinance. Such bond shall remain in force and must be executed for a period of two (2) years 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.

3. All cost and expense incident to the installation and connection 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.

4. A separate and independent building sewer shall be provided for every 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,

courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this Ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, and drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.

6. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9."

a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.

b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

Vitrified Clay Pipe VCP

- (1) Pipe and Fittings - ASTM C-700 "Standard Specification or Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated."
- (2) Coupling and Joints - ASTM C-425 "Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings".

Extra Heavy Cast Iron Soil Pipe

- (1) Pipe and Fittings - ASTM A-74 "Standard Specification for Cast Iron Soil Pipe and Fittings."
- (2) Joints - ASTM C-564 "Standard Specification for Rubber Gaskets for Cast Iron Soil Pipe and Fittings."

Polyvinyl Chloride (PVC)

Polyvinyl Chloride (PVC) and joints shall be installed according to the manufacturers' recommendations and shall conform to:

- (1) Pipe - A.S.T.M. D-3034, "Type P.S.M. Poly (PVC) and Fittings."

Minimum wall thickness:

4" - 0.125"

6" - 0.180"

8" - 0.240"

10" - 0.300"

- (2) Joints - A.S.T.M. D-1869, A.S.T.M. D-1312, "Flexible Elastomeric Seals."

c. No building sewer for residential or commercial buildings shall be less than four inches in diameter. No building sewer for industries or multiple dwellings shall be less than six inches in diameter.

d. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical.

e. All excavation shall be open trench work unless authorized by the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, coarse sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. Backfilling shall not be done until final inspection is made by the Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.

f. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

8. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

9. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. 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.

10. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.

11. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.

12. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

13. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.

14. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.

#### 6-2-5 USE OF THE PUBLIC SEWERS.

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:

- a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.
- b. Non-payment of bills.

- c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.
2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.
3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
  - a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
  - b. 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) mg/l as CN in the wastes as discharged to the public sewer.
  - c. 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.
  - d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of 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.
  - e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

4. 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 prohibited are:

- a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).
- b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).
- c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- e. 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.
- f. 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 with requirements of the State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.
- g. 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.
- h. Any waters or wastes having a pH in excess of 9.5.
- i. Materials which exert or cause:
  - (1) 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).

- (2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
- (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
- (4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.

j. 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.

5. 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 6-2-5(4), 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:

- a. Reject the wastes,
- b. Require pretreatment to an acceptable condition for discharge to the public sewers.
- c. Require control over the quantities and rates of discharge, and/or
- d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-2-5(10) of this article.

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.

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

7. 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.

8. 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.

9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance 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 premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls where pH's are determined from periodic grab samples).

10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

#### 6-2-6 PROTECTION FROM DAMAGE.

1. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Code of Iowa, Sec. 716.1)

#### 6-2-7 POWERS AND AUTHORITY TO INSPECTORS.

1. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's 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.

2. While performing the necessary work on private properties referred to in 6-2-7(1), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-2-5(8).

3. 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.

#### 6-2-8 PENALTIES.

1. Any person found to be violating any provision of this Ordinance except Section 6-2-6 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. Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 3 UTILITIES - WATER SYSTEM

6-3-1	Enforcement	6-3-8	Excavations
6-3-2	Adoption of State Plumbing Code	6-3-9	Inspection and Approval
6-3-3	Mandatory Connections	6-3-10	Completion by the City
6-3-4	Permit	6-3-11	Water Meters
6-3-5	Fee for Permit	6-3-12	Property Owner Responsibility
6-3-6	Water Supply Control	6-3-13	Failure to Maintain
6-3-7	Making the Connection	6-3-14	Operation of Curb Stop

6-3-1 ENFORCEMENT. The Superintendent of public utilities shall supervise the installation of water service pipes and their connections to the water main and enforce all regulations pertaining to water services in this City in accordance with this chapter. This chapter shall apply to all replacements of existing service pipes as well as to new ones. The City Council shall make such rules, not in conflict with the provisions of this chapter, as needed for the detailed operation of the waterworks. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the City Council may be had.

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

6-3-2 ADOPTION OF STATE PLUMBING CODE. The installation of any water-service pipe and any connection with the municipal water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the State Plumbing Code as amended and as published by the Iowa Department of Public Health, which is hereby adopted. An official copy of the State Plumbing Code as adopted and a certified copy of this Ordinance are on file in the office of the City Clerk for public inspection.

6-3-3 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water supply if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

6-3-4 PERMIT. Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the Superintendent. The application for the permit shall be filed with the Superintendent on blanks furnished by the Superintendent. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses shall be allowed except by written permission of the Superintendent. The Superintendent shall issue the permit, bearing the Superintendent's signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after it is issued. The Superintendent may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped. The owner or plumber may appeal such action in the manner provided in Section 6-3-3 of this Ordinance.

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

6-3-5 PERMIT. Before any permit is issued the person who makes the application shall discuss the project and have it approved by the Superintendent of Public Utilities. Any fee shall be established by Resolution. (See footnote at end of chapter)

6-3-6 WATER SUPPLY CONTROL. The plumber who makes the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water-service pipe near the curb with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

The plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the superintendent and unless provision is made so that each house, building or premise may be shut off independently of the other.

6-3-7 MAKING THE CONNECTION. Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the superintendent shall order. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

Water service pipes from the main to the meter setting shall be standard weight type K copper, one hundred forty (140) pound test P.V.C., or approved cast iron. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

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

6-3-8 EXCAVATIONS. Excavations to do work under this Ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any street, sidewalk, pavement or other public property that is affected, must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three months after refilling

6-3-9 INSPECTION AND APPROVAL. All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Superintendent's approval. Every person who uses or intends to use the municipal water system shall permit the Superintendent or the Superintendent's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

6-3-10 COMPLETION BY THE CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.

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

### 6-3-11 WATER METERS

1. Water use metered. All water furnished customers shall be measured through meters furnished by the City and installed by the City.
2. Fire sprinkler systems exception. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.
3. Location of meters. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.
4. Meter setting. The property owner shall have provided all necessary piping and fittings for proper setting of the meter. Meter pits may be used only upon approval of the superintendent and of a design and construction approved by him.
5. Meter costs. The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.
6. Meter repairs. Whenever a water meter owned by the City is found to be out of order the superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, then the property owner shall be liable for the cost of repairs.
7. Right of entry. The superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.
8. Meter installation fee. There shall be a fee charged to the property owner for each new installation of a water meter equal to the cost of the meter. The meter will remain the property of the City.

6-3-12 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the curb stop to the building served shall be borne by the owner. On all new construction the property owner shall bear all costs incident to the installation of water service from the building served to the main. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

6-3-13 FAILURE TO MAINTAIN. When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.

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

6-3-14 OPERATION OF CURB STOP. It shall be unlawful for any person except the water superintendent to turn water on at the curb stop.

Footnote: See 384.38(3) concerning establishing districts and connection fees (H.F. 2343, 1994 legislative session).

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 4 UTILITIES - REFUSE CONTROL AND COLLECTION

6-4-1	Definitions	6-4-11	Sanitary Disposal Project Designated
6-4-2	Health Hazard	6-4-12	Collection Service
6-4-3	Fire Hazard	6-4-13	Collection Vehicles
6-4-4	Open Burning Restricted	6-4-14	Loading
6-4-5	Littering Prohibited	6-4-15	Frequency of Collection
6-4-6	Open Dumping Prohibited	6-4-16	Location of Containers
6-4-7	Toxic and Hazardous Waste	6-4-17	Separation of Yard Waste Required
6-4-8	Waste Storage Containers	6-4-18	Bulky Rubbish
6-4-9	Sanitary Disposal Required	6-4-19	Recyclable Materials
6-4-10	Prohibited Practices	6-4-20	Right of Entry

6-4-1 DEFINITIONS. For use in this chapter the following terms are defined:

1. "Approved Incinerator" means equipment or facilities for the enclosed burning of refuse having a stack adequate to maintain a draft sufficient for efficient combustion and equipped with a screen sufficiently fine-to prevent ejection of particles of burning materials as acceptable to the Environmental Protection Commission.

2. "Back Yard Burning" means the disposal of residential waste by open burning on the premises of the property where such waste is generated.

(IAC, 567-20.2[455B])

3. "Discard" means to place, cause to be placed, throw deposit or drop.

(Code of Iowa, Sec. 455B.361)

4. "Executive Director" means the executive director of the state Department of Natural Resources or any designee.

(Code of Iowa, Sec. 455B.101[2b])

5. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

(IAC, 567-100.2)

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

(IAC, 567-20.2[45SB])

7. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, Sec. 455B.361[1])

8. "Open Burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack.

(IAC, 567-100.2)

9. "Open Dumping" means the depositing of solid waste on the surface of the ground or into a body or stream of water.

(IAC, 567-100.2)

10. "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.

11. "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)

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

(IAC, 567-20.2[4SSB])

13. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass bedding, crockery or litter of any kind.

(IAC, 567-100.2)

14. "Sanitary Disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

15. "Sanitary Disposal Project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Executive Director.

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

16. "Solid Waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 3 21.1 of the Code of Iowa.

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

Solid waste shall not include any recyclable material. Recyclable material shall consist of glass, corrugated cardboard, plastic material, paper, newspapers, tin and aluminum cans, or other waste that can be recycled.

(Passed Dec. 21, 1991)

17. "Toxic and Hazardous Waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

18. "Yard Waste" means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

19. "Collector" means any person authorized by this chapter to gather solid waste from public and private places.

20. "Dwelling Unit" means any room or group of rooms located within a structure an- forming a single habitable unit with facilities which are used, or are intended to be used, for living sleeping, cooking and eating.

21. "Multiple-family Dwelling" means a structure containing more than one dwelling unit.

22. "Property Served" means any property which is being used or occupied and is eligible to receive solid waste collection and disposal service as provided herein.

23. "Residential Premises" means a single-family dwelling and any multiple family dwelling. Garden type apartments and row type housing units shall be considered residential premises regardless of the total number of such apartments or units which may be included in a given housing development.

24. "Single-family Dwelling" means a structure containing one dwelling unit only.

6-4-2 HEALTH HAZARD. It shall be unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.

6-4-3 FIRE HAZARD. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.

6-4-4 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials, except that the following shall be permitted:

(IAC, 567-23.2[45SB])

1. Disaster Rubbish. The open burning of including landscape waste, for the duration of the disaster period in case where an officially emergency condition exists.

(IAC, 567-23.2[3])



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 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[3])

4. Landscape waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any inhabited building. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3])

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.

(IAC, 567-23.2[3])

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the Executive Director receives notice in writing at least one week before such action commences.

(IAC, 567-23.2[3])

7. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Executive Director.

(IAC, 567-23.2[2])

6-4-5 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)

6-4-6 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the open dumping or depositing of any solid waste at any place other than a sanitary disposal project approved by the Executive Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Executive Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307)

6-4-7 TOXIC AND HAZARDOUS WASTE. The collection, storage and disposal of toxic and hazardous waste shall be subject to the following:

1. Labeling. All containers used for the storage, collection or transportation of toxic or hazardous waste shall be plainly marked so as to provide adequate notice of the contents thereof.

2. Vehicles and Containers. All vehicles and containers used for the storage, collection and transportation of toxic and hazardous waste shall be so constructed that they can be loaded, moved and unloaded in a manner that does not create a danger to public health or safety and in compliance with federal and State laws, rules and regulations.

3. Disposal. 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 Executive Director.

(IAC, 567-102.14[2] and 400-27.14[2])

6-4-8 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specification. Waste storage containers shall comply with the following specifications:

a. Residential. Residential waste containers shall be of not less than twenty (20) gallons nor more than thirty-five (35) gallons in nominal capacity; shall be leak proof, water proof and fitted with a fly tight lid which shall be kept in place except when depositing or removing the contents thereof. They shall have handles, bails or other suitable lifting devices or features and be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying. They shall be of light weight and sturdy construction with the total weight of any individual containers and contents not exceeding seventy-five (75) pounds. Galvanized metal containers, rubber or fiberglass containers and plastic containers which do not become brittle in cold weather may be used. Disposable containers or other containers as approved by the City may also be used.

b. Commercial. Every person owning, managing, operating, leasing or renting any commercial premise 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. Location of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel.

3. Nonconforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

6-4-9 SANITARY DISPOSAL REQUIRED. It shall be 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 56 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

6-4-10 PROHIBITED PRACTICES. It shall be 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. Radioactive Material. Dispose of radioactive material in a sanitary disposal project. Luminous timepieces are exempt.
4. Incinerators. Burn rubbish or garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter.

6-4-11 SANITARY DISPOSAL PROJECT DESIGNATED. The solid waste facility operated by Sac County is hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

6-4-12 COLLECTION SERVICE. The City shall provide for the collection of all solid waste except bulky rubbish as provided in Section 106.08 within the City.

6-4-13 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))

6-4-14 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.

6-4-15 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 twice each week.

6-4-16 LOCATION OF CONTAINERS. 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.

6-4-17 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted on the premises, burned or hauled by the owner or occupant to a public compost site.

6-4-18 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.

6-4-19 RECYCLABLE MATERIALS. All recyclable materials and waste as defined in section 105.02 (16) shall be placed in separate containers to be furnished by the City or its contractors.  
(Added by Ordinance No.2, 12/21/91)

6-4-20 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.



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 5 UTILITIES – STORM WATER SYSTEM

6-5-1 Purpose

6-5-2 Definitions

6-5-3 Storm Water Drainage System  
Utility Established

6-5-1 PURPOSE. The purpose of this chapter is to establish a Storm Water Drainage System District Utility and provide a means of funding the construction, operation and maintenance of storm water management facilities including, but not limited to, detention and retention basins, storm water sewers, inlets, ditches and drains, and cleaning of streets. The Council finds that the construction, operation and maintenance of the City's storm and surface water drainage. water 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.

6-5-2 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 drainage line, or joining onto an existing side sewer, for the purpose of connecting private impervious surface or other storm or surface water sources or systems to 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, 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 lifting facilities, storm and secondary drain pipes and culverts, open channels, creeks and ditches, force mains, laterals, manholes, catch basins and inlets, including the grates covers thereof, detention, and retention 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 lot or in a multiple-use building on a single lot or multiple lot complexes. 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 the complex.
4. "User" means any person who uses property 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 the right to occupy it shall be deemed the user.

6-5-3 STORM WATER DRAINAGE SYSTEM DISTRICT ESTABLISHED. Pursuant to the authority of Section 384.84[5] of the Code of Iowa, the entire City 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 facilities. 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])

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 6 UTILITIES - BILLING CHARGES

6-6-1	Utility Defined	6-6-8	Water Rates
6-6-2	Districts	6-6-9	Refuse Collection Rates
6-6-3	Disposition of Fees and Charges	6-6-10	Rate of Sewer Rent and Manner of Payment
6-6-4	Billing, Penalty	6-6-11	Determination and Payment of Sewer Rent From Premises with Private Water Systems
6-6-5	Discontinuing Services, Fees		
6-6-6	Residential Rental Property		
6-6-7	Customer Guarantee Deposits		

6-6-1 UTILITY DEFINED. For use in this chapter, utility is the sewer, water, and refuse collection systems operated by the City.

6-6-2 DISTRICTS. There shall be one sewer and water district which encompasses all of the City of Odebolt, Iowa.

6-6-3 DISPOSITION OF FEES AND CHARGES. All money received under this chapter shall be deposited in the City treasury not later than the last day of the month in which it was received and a written report of the amount and source of the fees and charges shall be on file with the City Clerk.

6-6-4 BILLING, PENALTY. Utility bills shall be due by the 20<sup>th</sup> day after month following the period for which service is billed. Payment shall be made to the City Clerk. Bills shall become delinquent after the twentieth day of the month in which due and bills paid after said day shall have added a penalty of five dollars (\$5.00).

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

6-6-5 DISCONTINUING SERVICE, FEES.

1. If any account is not paid within thirty days from the end of any given period, the service to such owner or person so supplied with the utility shall be discontinued after the following procedures have been complied with:

a. The City Clerk shall send a disconnect or discontinuance notice by ordinary mail providing the following notice to customers: "You are advised that you may request a hearing on this matter to the City Clerk by noon on the day preceding the scheduled shut-off date or discontinuance of service."

b. When a hearing is requested by a customer, the Mayor or the Mayor's designee shall conduct a hearing within two (2) days following the request. The customer shall have the right to present evidence or propose a payment plan. The decision of the Mayor is final.

2. If service is discontinued for nonpayment of fees and charges, a \$75.00 fee shall be charged to reconnect the water. If any such service charge is not paid within sixty (60) days



from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes.

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

3. A lien shall not be certified to the County Treasurer for collection unless thirty (30) days prior written notice by ordinary mail of the intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or property lessor of the property has made a written request for notice, the notice shall also be given to the owner.

(Code of Iowa, Sec. 384.84 (3))

4. If the property in which there are delinquent utilities owing is sold before the City certifies the lien to the County Treasurer, the City may certify the delinquent utilities against another property located in this state owned by the delinquent user.

(Code of Iowa, Sec. 384.84(3)(a)(3))

5. A \$10.00 fee shall be charged for customers who elect to forgo water service for usual or customary absences for extended time periods. If the water service is stopped to correct leaks, or for remodeling purposes, no fee will be charged. If a water service stoppage is requested and granted through the City Clerk's office as a result of an extended usual or customary absence, all other city services will be stopped and will resume only when water service has been reconnected.

6-6-6 RESIDENTIAL RENTAL PROPERTY. Residential rental property where a charge for any of the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal is paid directly to the City by the tenant is exempt from a lien for delinquent rates or charges associated with such services if the landlord gives written notice to the City utility that the property is residential rental property and that the tenant is liable for the rates or charges. A City utility may require a deposit not exceeding the usual cost of ninety (90) days of the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal to be paid to the utility. Upon receipt, the utility or enterprise shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for the charges, the address of the residential rental property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice to be given to the City utility within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City utility shall return the deposit, within ten days, if the charges for the services of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal are paid in full.

A change in the ownership of the residential rental property shall require written notice of such change to be given to the City utility within thirty (30) business days of the completion of the change of ownership. The lien exemption for rental property does not apply to charges for repairs related to a service of water, sewer systems, storm water drainage systems, sewage treatment, solid waste collection, and solid waste disposal if the repair charges become delinquent.

(Code of Iowa, Sec. 384.84(3)(d))

(Code of Iowa, Sec. 384.84(3)(e))

6-6-7 CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all customers who are tenants, or others having no established credit record, and of those who have an unacceptable credit record or who have a prior record of failure to pay water bills rendered. Such deposit shall be equal to the estimated typical bill for the type of use contracted for, and be set to the nearest five (\$5.00) dollars. Deposits of customers having established acceptable credit records for three (3) years shall have their deposits returned. An occurrence or recurrence of a bad payment record may be the occasion for the City Clerk to require a new or larger deposit for the continuation of service.

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

6-6-8 WATER RATES. Water shall be furnished at the following monthly rates.

1. For property serviced within the City limits:

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

The first 1,000 gallons will be assessed as part of the monthly minimum of \$19.00.

All use over 1,000 gallons in a month will be charged at \$4.50 per 1,000 gallons.

The minimum charge shall be \$13.00 per household or business building per billing month.

2. Properties serviced outside of the corporate limits of the city which the City has agreed to serve will be charged at 200% of the rates provided in 6-6-8 (1) of this chapter. No such customer will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules, and regulation applying to water services established by the City Council.

6-6-9 REFUSE COLLECTION RATES. There shall be collected by the City for its services in collecting garbage and rubbish, the following mandatory fees to every property connected to the city water system:

1. Residence Rate.

a. Garbage. For each resident with alley or curb pickup, the charge is \$11.75 per month for one garbage or rubbish collection each week, consisting of a maximum of 66 gallons of bagged trash in approved containers. In the event that alley or curb pickup for any residence is not feasible, the City Clerk is hereby empowered to enter into an agreement with such resident for any additional charge to be paid by such resident for any other location of pickup that may be agreed upon.

b. Recycling. A residential recycling charge is \$3.00 per month.

If the amount of trash exceeds the 66 gallon limit, a tag must be purchased from the City Clerk and must be visibly affixed to the trash.

2. Commercial Rate. Rates for commercial establishments will be a minimum of \$12.75 per month, with rates set at an individual basis.

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

6-6-10 RATE OF SEWER RENT AND MANNER OF PAYMENT. The rate of sewer rent shall be based upon the net water bill for each premise. The rent shall be paid with the water bill at the same time as payment of the water bill is due and under the same condition as to penalty for late payment, at the office of the City Clerk, beginning with the next payment after the enactment of this Ordinance, or, if connection has not been made, after the connection to the sewer system is made.

1. The sewer rent rate follows:

First 1,000 gallons of water used over the monthly billing period will be charged at \$14.00. All use over 1,000 gallons shall be charged at \$4.60 per 1,000 gallons.

The minimum sewer rent will be \$14.00 per month.

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

6-6-11 DETERMINATION AND PAYMENT OF SEWER RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS. Users whose premises have a private water system shall pay a sewer rent in proportion to the water used and determined by the City Council either by an estimate agreed to by the user or by metering the water system. The rates shall be the same as provided in Section 6-5-10 applied as if a City water bill were to be paid. Rent shall be paid at the same time and place as provided in Section 6-5-10.

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

Footnote: See Code of Iowa, Sec. 384.38(3) concerning establishing districts and connection fees.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 7 SUBDIVISION REGULATIONS

#### GENERAL PROVISIONS

- 6-7-1 Short Title
- 6-7-2 Purpose
- 6-7-3 Application
- 6-7-4 Recording of Plat

#### DEFINITIONS

- 6-7-5 Terms Defined

#### IMPROVEMENTS

- 6-7-6 Improvements Required
- 6-7-7 Inspection
- 6-7-8 Minimum Improvements
- 6-7-9 Completion of Improvements
- 6-7-10 Performance Bond

#### MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS

- 6-7-11 Minimum Standards

#### PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

- 6-7-12 Procedures and Submission Requirements for Plats
- 6-7-13 Pre-Application Conference
- 6-7-14 Sketch Plan Required
- 6-7-15 Presentation to Planning Commission or City Council
- 6-7-16 Subdivision Classified
- 6-7-17 Plats Required
- 6-7-18 Requirements of Preliminary Plat
- 6-7-19 Referral of Preliminary Plat
- 6-7-20 Action by the City Engineer
- 6-7-21 Action by the Governing Body
- 6-7-22 Final Plat
- 6-7-23 Referral Final Plat
- 6-7-24 Requirements of the Final Plat
- 6-7-25 Final Plat Attachments
- 6-7-26 Action by the Governing Body

#### OTHER PROVISIONS

- 6-7-27 Variances
- 6-7-28 Chain Subdividing
- 6-7-29 Extraterritorial Review Agreement

#### GENERAL PROVISIONS

6-7-1 **SHORT TITLE.** This chapter shall be known and may be cited as "The City of Odebolt, Iowa, Subdivision Control Ordinance."

6-7-2 **PURPOSE.** The purpose of this Ordinance is to provide minimum standards for the design, development and improvement of all new subdivisions and resubdivisions of land, so that existing developments 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 Comprehensive Plan, and to promote the public health, safety and general welfare of the citizens of the City of Odebolt, Iowa.

(Code of Iowa, Sec. 354.1 and 364.1)

6-7-3 **APPLICATION.** Every owner who divides any original parcel of land, forty (40) acres or part thereof, entered of record in the office of the County Recorder as a single lot, parcel or tract on or before the effective date of these regulations into three or more lots, parcels, or tracts for the purpose, whether immediate or future, of laying out an addition, subdivision, building lot or lots,

acreage or suburban lots, transfer of ownership or building development within the City shall cause plats of such area to be made in the form, and containing the information, as hereinafter set forth before selling any lots therein contained or placing the plat on record.

(Code of Iowa, Sec. 354.9)

6-7-4 RECORDING OF PLAT. No subdivision plat, resubdivision plat or street dedication within the City of Odebolt, Iowa as provided in Section 354.9, Code of Iowa, shall be filed for record with the County Recorder, or recorded by the County Recorder, until a final plat of such subdivision, resubdivision, or street dedication has been reviewed and approved in accordance with the provisions of this Ordinance.

Upon the approval of the final plat by the governing body, 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.

(Code of Iowa, Sec. 354.9)

## DEFINITIONS

6-7-5 TERMS DEFINED. For the purposes of this Ordinance, certain words herein shall be defined as and interpreted as follows. Words used in the present tense shall include the future, the singular shall include the plural, the plural shall include the singular, the term "shall" is always mandatory, and the term "may" is permissive.

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.

(Code of Iowa, Sec. 354.2(1))

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.

(Code of Iowa, Sec. 354.2(2))

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.

(Code of Iowa, Sec. 354.2(3))

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. "Building Lines" means a line on a plat between which line and public right-of-way no building or structures may be erected.

7. "City Engineer" means the professional engineer registered in the State of Iowa designated as City Engineer by the governing body or other hiring authority.
8. "Comprehensive Plan" means the general plan for the development of the community, that may be titled master plan, comprehensive plan or some other title, which plan has been adopted by the governing body. Such "Comprehensive Plan" shall include any part of such plan separately adopted, and any amendment to such plan or parts thereof.
9. "Conveyance" means an instrument filed with a Recorder as evidence of the transfer of title to land, including any form of deed or contract.  
(Code of Iowa, Sec. 354.2(5))
10. "Cul-de-Sac" means a street having one end connecting to another street, and the other end terminated by a vehicular turn around.
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.  
(Code of Iowa, Sec. 354.2(6) and 355.1(2))
12. "Easement" means an authorization by a property owner for another to use a designated part of said owner's 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 one hundred (100) year flood; as designated by the Iowa Department of Natural Resources or the Federal Emergency Management Agency.
14. "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 one hundred (100) year flood without cumulatively raising the waterway surface elevation more than one (1) foot.
15. "Forty-Acre Aliquot Part" means one-quarter of one-quarter of a section.  
(Code of Iowa, Sec. 354.2(7))
16. "Governing Body" means the City Council of the City of Odebolt, Iowa.  
(Code of Iowa, Sec. 354.2(8))
17. "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.  
(Code of Iowa, Sec. 354.2(9) and 355.1(3))
18. "Improvements" means 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, drainageways, and other public works and appurtenances.
19. "Lot" means a tract of land represented and identified by number or letter designation on an official plat.  
(Code of Iowa, Sec. 354.2(10))

20. "Lot, Corner". The term "corner lot" means a lot situated at the intersection of two streets.
21. "Lot, Double Frontage". The term "double frontage lot" means any lot that is not a corner lot that abuts two streets.
22. "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.  
(Code of Iowa, Sec. 354.2(11))
23. "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.  
(Code of Iowa, Sec. 354.2(12))
24. "Original Parcel" means forty acres or part thereof entered of record in the office of the County Recorder as a single lot or parcel on or before the passage of this ordinance.
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.  
(Code of Iowa, Sec. 354.2(13))
27. "Performance Bond" means a surety bond or cash deposit made out to the City of Odebolt, Iowa, in an amount equal to the full cost of the improvements which are required by this Ordinance, said cost estimated by the City and said surety bond or cash bond being legally sufficient to secure to the City that the said improvements will be constructed in accordance with this Ordinance.
28. "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.  
(Code of Iowa, Sec. 354.2(14))
29. "Planning Commission" means the appointed commission designed by the governing body for the purpose of this Ordinance, and may also be the Zoning Commission, in which case such commission shall be known as the Planning and Zoning Commission.
30. "Plat" means a map drawing, or chart on which a subdivider's plan for the subdivision of land is presented, that said subdivider submits for approval and intends, in final form, to record.
31. "Plats Officer" means the individual assigned the duty to administer this Ordinance by the governing body or other appointing authority.

32. "Plat of Survey" means the graphical representation of a 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.

(Code of Iowa, Sec. 354.2(15) and 355.1(9))

33. "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.

(Code of Iowa, Sec. 354.2(16))

34. "Resubdivision" means any subdivision of land that has previously been included in a recorded plat. In appropriate context it may be a verb referring to the act of preparing a plat of previously subdivided land.

35. "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.

36. "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.

37. "Street, Collector" means a street primarily designed to connect smaller areas of the community, and to carry traffic from local streets to arterial streets.

38. "Street, Local" means a street primarily designed to provide access to abutting property.

39. "Subdivider" means the owner of the property being subdivided, or such other person or entity empowered to act on the owner's behalf.

40. "Subdivision" means the accumulative effect of dividing an original lot, tract, or parcel of land, as of the passage of this ordinance, into three (3) or more lots for the purpose of immediate or future sale or transfer for development purposes excluding public roadways, public utility extensions, and land taken by condemnation. The term includes a resubdivision or replatting. When appropriate to the context, the word may relate to the process of subdividing or the land subdivided.

Any person not in compliance with the provisions of the subdivision definition at the time of its effective date as of passing this ordinance shall not be required to comply with such provisions unless or until a new division, re-subdivision or replatting occurs following that effective date.

(Code of Iowa, Sec. 354.2(17) and 355.1(10))

41. "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 succinct name or title that is unique for the county where the land is located.

(Code of Iowa, Sec. 354.2(18) and 355.1(11))



42. "Surveyor" means a registered land surveyor who engages in the practice of land surveying pursuant to Chapter 542B of the Code of Iowa.

(Code of Iowa, Sec. 354.2(19) and 355.1(12))

43. "Tract" means an aliquot part of a section, a lot within an official plat, or a government lot.

(Code of Iowa, Sec. 354.2(20))

44. "Utilities" means systems for the distribution or collection of water, gas, electricity, wastewater, and storm water.

## IMPROVEMENTS

6-7-6 IMPROVEMENTS REQUIRED. The subdivider shall, at said subdivider's expense, install and construct all improvements required by this Ordinance. All required improvements shall be installed and constructed in accordance with the design standards established for such improvements by the City, and as shown on the approved preliminary plat.

6-7-7 INSPECTION. All improvements shall be inspected to insure compliance with the requirements of this Ordinance. The cost of such inspection shall be borne by the subdivider and shall be the actual cost of the inspection to the City.

6-7-8 MINIMUM IMPROVEMENTS. The improvements set forth below shall be considered the minimum improvements necessary to protect the public health, safety and welfare.

(Code of Iowa, Sec. 364.1)

1. Streets and alleys. All streets and alleys within the platted area which are dedicated for public use shall be brought to the grade approved by the governing body.

2. Roadways. All roadways shall be surfaced with portland cement concrete or with asphaltic concrete over a crushed stone base as the governing body may require.

3. Curb and Gutter. Curb and gutter shall be required on all streets. All curb and gutter shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer. Newly constructed curbs and gutters shall comply with the Americans With Disabilities Guidelines (ADAAG).

4. Sidewalks. Sidewalks shall be required. Sidewalks shall be constructed to the grade approved by the governing body after receiving the report and recommendations of the City Engineer, and comply with the Americans with Disabilities Guidelines (ADAAG).

5. Water lines. Where a public water main is reasonably accessible, the subdivider shall connect with such water main and provide a water connection for each lot with service pipe installed to the property line in accordance with the City Water Department standards, procedures and supervision.

6. Sewers.

- a. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer and shall provide within the subdivision the sanitary sewer system as required to make the sewer accessible to each lot in the subdivision. Sanitary sewers shall be stubbed into each lot. Sewer systems shall be approved by the governing body and the State Department of Health and the construction subject to the supervision of the Superintendent of public utilities.
- b. Where sanitary sewers are not available, other facilities, as approved by the governing body and the State Department of Health must be provided for the adequate disposal of sanitary wastes.
- c. Adequate provisions shall be made for the disposal of storm waters, subject to the approval of the governing body and to the supervision of the Superintendent of public utilities.

6-7-9 COMPLETION OF IMPROVEMENTS. Before the governing body shall approve the final plat, all of the foregoing improvements shall be constructed and accepted by formal resolution of the governing body. Before passage of said resolution of acceptance, the Superintendent of public utilities shall report that said improvements meet all City specifications and Ordinances or other City requirements, and the agreements between subdivider and the City.

6-7-10 PERFORMANCE BOND. The completion requirement may be waived in whole or in part if the subdivider will post a performance bond with the governing body guaranteeing that improvements not completed will be constructed within a period of one (1) year from final acceptance of the plat, but final acceptance of the plat will not constitute final acceptance by the City of any improvements to be constructed. Improvements will be accepted only after their construction has been completed, and no public funds will be expended in the subdivision until such improvements have been completed and accepted by the City.

#### MINIMUM STANDARDS FOR THE DESIGN OF SUBDIVISIONS.

6-7-11 MINIMUM STANDARDS. The following standards shall be considered the minimum standards necessary to protect the public health, safety, and general welfare.

1. Relation to existing streets.
  - a. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.
  - b. The arrangement of streets in a subdivision shall either provide for the continuation of appropriate projection of existing principal streets in surrounding areas or conform to a plat for the neighborhood approved by the governing body to meet a particular situation where topographical or other conditions made continuance or conformance to existing streets impracticable.

2. Acreage subdivisions.
  - a. Where the plat submitted covers only a part of the subdivider's plat, a sketch of the prospective future system of the unsubmitted part shall be furnished and the street system of the part submitted shall be considered in the light of adjustments in connection with the street system of the part not submitted.
  - b. Where the parcel is subdivided into larger tracts than for building lots such parcels shall be divided so as to allow for the opening of major streets and the ultimate extension of adjacent minor streets.
  - c. Subdivisions showing unplatted strips or private streets controlling access to public ways will not receive approval.
3. Local streets.
  - a. Local streets shall be so planned as to discourage through traffic.
  - b. Cul-de-sac streets are permitted where topography and other conditions justify their use. Such streets shall not be longer than five hundred (500) feet and shall terminate with a turn-around, having an outside roadway diameter of at least eighty (80) feet and a street property line diameter of at least one hundred (100) feet. The right-of-way width of the straight portion of such streets shall be a minimum of fifty (50) feet. The property line at the intersection of the turn-around and the straight portion of the street shall be rounded at a radius of not less than twenty (20) feet.
4. Frontage streets.
  - a. Where a subdivision abuts or contains an existing or proposed arterial street, the governing body may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, deep lots with rear service alleys, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
  - b. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the governing body may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
5. Half-streets. Half-streets shall be prohibited except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the governing body finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half-

street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

6. Street Geometrics.

a. Street jogs with centerline offsets of less than one hundred twenty-five (125) feet shall be avoided.

b. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

c. When connecting street lines deflect from each other at any one point by more than ten (10) degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than two hundred (200) feet for minor and collector streets, and of such greater radii as the governing body shall determine for special cases.

7. Intersections.

a. Insofar as is practical, acute angles between streets at their intersection are to be avoided.

b. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than sixty (60) degrees.

c. Property lines at street intersections shall be rounded with a radius of ten (10) feet, or of a greater radius where the governing body may deem it necessary. The governing body may permit comparable cutoffs or chords in place of rounded corners.

8. Street names. Streets that are in alignment with others already existing and named shall bear the name of the existing streets. The proposed names of new streets shall not duplicate or sound similar to existing street names. Street names shall be subject to the approval of the governing body.

9. Street grades.

a. Street grades, wherever feasible, shall not exceed five (5) percent, with due allowance for reasonable vertical curves.

b. No street grade shall be less than one-half (1/2) of one (1) percent.

10. Alleys.

a. Alleys shall be provided in commercial and industrial districts, except that the governing body may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

- b. The width of an alley shall be twenty (20) feet.
- c. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movements.
- d. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turn-around facilities at the dead-end, as determined by the governing body.

11. Blocks.

- a. No block may be more than one thousand three hundred twenty (1,320) feet or less than five hundred (500) feet in length between the center lines of intersecting streets, except where, in the opinion of the governing body, extraordinary conditions unquestionably justify a departure from these limits.
- b. In blocks over seven hundred (700) feet in length, the governing body may require at or near the middle of the block a public way or easement of not less than ten (10) feet in width for use by pedestrians and/or as an easement for public utilities.

12. Lots.

- a. The lot size, width, depth, shape and orientation shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
- b. Minimum lot dimensions and sizes.
  - (1) Residential lots where not served by public sewer shall not be less than eighty (80) feet wide nor less than ten thousand (10,000) square feet in area.
  - (2) Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.
  - (3) Corner lots for residential use shall have an extra ten (10) feet of width to permit appropriate building setback from and orientation to both streets.
- c. The subdividing of the land shall be such as to provide, by means of public street, each lot with satisfactory access to an existing public street.
- d. Double frontage and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet and across which there shall be no right of access,

shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

e. Side lot lines shall be substantially at right angles to straight street lines or radial to curved street lines.

13. Building lines. Building lines shall be shown on all lots within the platted area. The governing body may require building lines in accordance with the needs of each subdivision.

14. Easements.

a. Easement across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten (10) feet wide.

b. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and further width for construction, or both, as will be adequate for the purpose.

15. Plat markers. Markers shall be placed at all block corners, angle points, points of curves in streets, and all such intermediate points as shall be required by the governing body. The markers shall be of such material, size and length as may be approved by the governing body.

## PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS

6-7-12 PROCEDURES AND SUBMISSION REQUIREMENTS FOR PLATS. In obtaining final approval of a proposed subdivision by the governing body, the subdivider and owner shall submit a plat in accordance with the requirements hereafter set forth and install improvements or provide a performance bond.

6-7-13 PRE-APPLICATION CONFERENCE. Whenever a subdivision located within the platting jurisdiction of the City is proposed, the owner and subdivider shall schedule a preapplication conference with the City Clerk. The conference should be attended by the City Clerk and such other City or utility representatives as is deemed desirable; and by the owner and said owner's engineer and/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 relating to the proposed subdivision.

6-7-14 SKETCH PLAN REQUIRED. For the pre-application conference, the subdivider shall provide a map 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.

6-7-15 PRESENTATION TO PLANNING COMMISSION OR CITY COUNCIL. The subdivider may present the sketch plan to the governing body for review, prior to incurring significant costs preparing the preliminary or final plat.

6-7-16 SUBDIVISION CLASSIFIED. Any proposed subdivision or resubdivision shall be classified as minor subdivision or a major subdivision.

1. Minor Subdivision. Means any subdivision that contains not more than four (4) lots fronting on an existing street and that does not require construction of any public improvements, and that does not adversely affect the remainder of the parcel shall be classified as a minor plat.
2. Major Subdivision. Any subdivision that, in the opinion of the governing body, does not for any reason meet the definition of a minor subdivision, shall be classified as a major subdivision.

6-7-17 PLATS REQUIRED. In order to secure approval of a proposed subdivision, the owner and subdivider of any major subdivision shall comply with the requirements for a preliminary plat and the requirements for a final plat. The owner and subdivider of a minor subdivision or an auditor's plat may elect to omit the submission of a preliminary plat.  
(Code of Iowa, Sec. 354.6)

6-7-18 REQUIREMENTS OF PRELIMINARY PLAT. The subdivider shall prepare and file with the City Clerk four (4) copies of a preliminary plat of adequate scale and size showing the following:

1. Title, scale, north point and date.
2. Subdivision boundary lines, showing dimensions, bearing angles, and references to section, townships and range lines or corners.
3. Present and proposed streets, alleys and sidewalks, with their right-of-way, in or adjoining the subdivision, including dedicated widths, approximate gradients, types and widths of surfaces, curbs, and planting strips, and location of street lights.
4. Proposed layout of lots, showing numbers, dimensions, radii, chords and the square foot areas of lots that are not rectangular.
5. Building setback or front yard lines.
6. Parcels of land proposed to be dedicated or reserved for schools, parks, playgrounds, or other public, semi-public or community purposes.
7. Present and proposed easements, showing locations, widths, purposes and limitation.
8. Present and proposed utility systems, including sanitary and storm sewers, other drainage facilities, water lines, gas mains, electric utilities, and other facilities, with the size, capacity, invert elevation and location of each.

9. Proposed name of the subdivision which shall not duplicate or resemble existing subdivision names in the county.
10. Names and addresses of the owner, subdivider, builder, and engineer, surveyor or architect who prepared the preliminary plat, and the engineer, surveyor or architect who will prepare the final plat.
11. Existing and proposed zoning of the proposed subdivision and adjoining property.
12. A general summary description of any protective covenants or private restrictions to be incorporated in the final plat.
13. Contours at vertical intervals of not more than two (2) feet if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five (5) feet if the general slope is ten (10) percent or greater, unless the City Council waives this requirement.

6-7-19 REFERRAL OF PRELIMINARY PLAT. The City Clerk shall forthwith refer two (2) copies of the preliminary plat to the City Engineer and (2) copies to the governing body.

6-7-20 ACTION BY THE CITY ENGINEER. The City Engineer shall carefully examine said preliminary plat as to its compliance with Section 354.8 of the Code of Iowa and the laws and regulations of the City of Odebolt, Iowa, the existing street system, and good engineering practices, and shall, as soon as possible, submit the City engineer's findings in duplicate to the governing body together with one (1) copy of the plat received.

(Code of Iowa, Sec. 354.8)

6-7-21 ACTION BY THE GOVERNING BODY. The governing body shall, upon receiving the report of the City Engineer, as soon as possible, but not more than thirty (30) days thereafter, consider said report, negotiate with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by the subdivider, and pass upon the preliminary plat as originally submitted or modified. If the governing body does not act within thirty (30) days, the preliminary plat shall be deemed to be approved, provided, however, that the subdivider may agree to an extension of the time for a period not to exceed an additional sixty (60) days. It shall then set forth its recommendations in writing, whether of approval, modification or disapproval.

1. In the event that substantial changes or modifications are made by the governing body or disapproval of the plat, it shall give its reasons therefor and it may request and cause the revised preliminary plat to be resubmitted in the same manner as the original plat.

2. If approved, the governing body shall express its approval as "Conditional Approval" and state the conditions of such approval, if any.

3. The action of the governing body shall be noted on two (2) copies of the preliminary plat, referenced and attached to any conditions determined. One (1) copy shall be returned to the subdivider and the other copy retained by the governing body.



4. The "Conditional Approval" by the governing body shall not constitute final acceptance of the addition or subdivision by the City but an authorization to proceed with preparation of the final plat.

6-7-22 FINAL PLAT. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which the subdivider proposes to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

6-7-23 REFERRAL FINAL PLAT. The subdivider shall, within twelve (12) months of the "Conditional Approval" of the preliminary plat by the governing body prepare and file four (4) copies of the final plat and other required documents with the City Clerk as hereafter set forth, and upon the subdivider's failure to do so within the time specified, the "Conditional Approval" of the preliminary plat shall be null and void unless an extension of times is applied for and granted by the governing body. Upon receipt of the final plat and other required documents, the City Clerk shall transmit two (2) copies of the final plat to the governing body for its recommendations and approval.

Except for a final plat for a minor subdivision or an auditor's plat as set forth herein, no final plat shall be considered by the governing body 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.

At its discretion the governing body may refer the final plat to the City Engineer pursuant to the procedure established in 6-7-18.

(Code of Iowa, Sec. 354.8 and 355.8)

6-7-24 REQUIREMENTS OF THE FINAL PLAT. The final plat shall conform to the requirements of chapter 355, Code of Iowa, and shall be clearly and legibly drawn to a scale of not more than one hundred (100) feet to one (1) inch with permanent ink on a reproducible tracing material. It shall show:

1. The title under which the subdivision is to be recorded.
2. The linear dimensions in feet and decimals of a foot of the subdivision boundary, lot lines, streets and alleys. These should be exact and complete to include all distances, radii, arc, chords, points of tangency and central angles.
3. Street names and clear designations of public alleys. Streets that are continuations of present streets should bear the same name. If new names are needed, they should be distinctive. Street names may be required to conform to the City Plan.
4. Location, type, materials, and size of all monuments and markers including all U.S., county or other official bench marks.
5. The signature and acknowledgement of the subdivision land owner and the subdivision land owner's spouse.

6. A sealed certification of the accuracy of the plat and that the plat conforms to Section 354.8 of the Code of Iowa by the professional engineer or land surveyor who drew the final plat.

6-7-25 FINAL PLAT ATTACHMENTS. The final plat shall have the following attached to it:

1. A correct description of the subdivision land.  
(Code of Iowa, Sec. 354.6(2))
2. A certificate by the owner and the owner's spouse, if any, that the subdivision is with the free consent, and is in accordance with the desire of the owner and spouse. This certificate must be signed and acknowledged by the owner and spouse before some officer authorized to take the acknowledgements of deeds.  
(Code of Iowa, Sec. 354.11(1))
3. A complete abstract of title and an Attorney's opinion showing that the fee title to the subdivision land is in the owner's name and that the land is free from encumbrances other than those secured by an encumbrance bond.  
(Code of Iowa, Sec. 354.11(3))
4. A certificate from the County Treasurer that the subdivision land is free from taxes.  
(Code of Iowa, Sec. 354.11(5))
5. A certificate from the Clerk of District Court that the subdivision land is free from all judgments, attachments, mechanics or other liens of record in the Clerk's office.
6. A certificate from the County Recorder that the title in fee is in the owner's name and that it is free from encumbrances other than those secured by an encumbrance bond.  
(Code of Iowa, Sec. 354.11(2))
7. A certificate of dedication of streets and other public property.  
(Code of Iowa, Sec. 354.11(1))
8. A statement of restrictions of all types that run with the land and become covenants in the deeds of lots.
9. Resolution and certificate for approval by the governing body and for signatures of the Mayor and Clerk.  
(Code of Iowa, Sec. 354.11(4))
10. Profiles, typical cross sections, and specifications of street improvements and utility systems, to show the location, size and grade. These should be shown on a fifty (50) foot horizontal scale and a five (5) foot vertical scale with west or south at the left.
11. A certificate by the City Clerk or similar official that all required improvements and installations have been completed, or that a performance bond guaranteeing completion has been approved by the City Attorney and filed with the City Clerk, or that the governing body has agreed that the City will provide the necessary improvements and installations and assess the costs against the subdivider or future property owners in the subdivision.

12. The encumbrance bond, if any, as specified in Sections 354.11 and 354.12, Code of Iowa.

6-7-26 ACTION BY THE GOVERNING BODY. Upon receipt of the plat, but not more than sixty (60) days following submission of the final plat to the Clerk as stated in 6-7-23 the governing body shall either approve or disapprove the final plat.  
(Code of Iowa, Sec. 354.8)

1. In the event that said plat is disapproved by the Governing Body, such disapproval shall be expressed in writing and shall point out wherein said proposed plat is objectionable.
2. In the event that said plat is found to be acceptable and in accordance with this Ordinance, the governing body shall accept the same.
3. The passage of a resolution by the governing body accepting the plat shall constitute final approval of the platting of the area shown on the final plat, but the subdivider or owner shall cause such plat to be recorded in the office of the County Recorder of Sac County, Iowa, and shall file satisfactory evidence of such recording before the City shall recognize the plat as being in full force and effect.

#### OTHER PROVISIONS

6-7-27 VARIANCES. Where in the case of a particular proposed subdivision, it can be shown that strict compliance with the requirement of this Ordinance would result in extraordinary hardship to the subdivider, because of unusual topography or other conditions, the governing body may vary, modify or waive the requirements so that substantial justice may be done and the public interest secure. Provided, however, that such variance, modification or waiver will not have the effect of nullifying the intent and purpose of this Ordinance. Such variances and waivers may be granted only by the affirmative vote of three-fourths (3/4) of the members of the Governing Body.

6-7-28 CHAIN SUBDIVIDING. No more than two building permits for each separate tract existing at the effective date of this Ordinance shall be issued unless the tract has been platted in accordance with this Ordinance; except that this provision shall not limit the number of building permits that may be issued for accessory buildings as defined by the (choose one)-(zoning or restricted residence district) Ordinance or additions or improvements to a main or accessory building already legally located upon said tract.

6-7-29 EXTRATERRITORIAL REVIEW AGREEMENT.

The City may negotiate an extraterritorial review agreement between the City of Odebolt and Sac County for the standards and conditions applied by the City for review and approval of a subdivision as provided in Section 354.9 of the Code of Iowa.

(Code of Iowa, Sec. 354.8 and 354.9)

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 8 SIDEWALK REGULATIONS

6-8-1	Purpose	6-8-11	Failure to Obtain Permit; Remedies
6-8-2	Definitions	6-8-12	Inspection and Approval
6-8-3	Cleaning Snow, Ice, and Accumulations	6-8-13	Barricades and Warning Lights
6-8-4	Maintenance Responsibility	6-8-14	Interference with Sidewalk Improvements
6-8-5	Liability of Abutting Owner	6-8-15	Special Assessments for Construction and Repair
6-8-6	Ordering Sidewalk Improvements	6-8-16	Notice of Assessment for Repair or Cleaning Costs
6-8-7	Repairing Defective Sidewalks	6-8-17	Hearing and Assessment
6-8-8	Notice of Inability to Repair or Barricade	6-8-18	Billing and Certifying to County
6-8-9	Standard Sidewalk Specifications	6-8-19	ADAAG Compliance
6-8-10	Permits for Construction or Removal		

6-8-1 PURPOSE. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-8-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:
  - a. vertical separations equal to three-fourths (3/4) inch or more.
  - b. horizontal separations equal to three-fourths (3/4) inch or more.
  - c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
  - d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
  - e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.
  - f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
  - g. a sidewalk with any part thereof missing to the full depth.
  - h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.

2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

6-8-3 CLEANING SNOW, ICE, AND ACCUMULATIONS. It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

(Code of Iowa, Sec. 364.12(2b) and (2e))

6-8-4 MAINTENANCE RESPONSIBILITY. The abutting property owner or owners shall be responsible for the repair, replacement or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way.

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

6-8-5 LIABILITY OF ABUTTING OWNER. As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. 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 condition 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)

6-8-6 ORDERING SIDEWALK IMPROVEMENTS. The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court. Notice of this order shall be sent to the owner by certified mail. The notice shall include the

fact that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

6-8-7 REPAIRING DEFECTIVE SIDEWALKS. It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Superintendent of Public Utilities shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Superintendent of Public Utilities shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

6-8-8 NOTICE OF INABILITY TO REPAIR OR BARRICADE. It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

6-8-9 STANDARD SIDEWALK SPECIFICATIONS. Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.
2. Sidewalks shall be on one-course construction.
3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid.
4. The sidewalk bed shall be graded to the established grade.
5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.
6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.

7. All elevations of sidewalks are to be established by the Superintendent of Public Utilities on a case-by-case basis.
8. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.
9. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.
10. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.

(Code of Iowa, Sec. 216C.9)

11. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Superintendent of Public Utilities, and in accordance with the standard sidewalk specifications set forth in this chapter.

6-8-10 PERMITS FOR CONSTRUCTION OR REMOVAL. No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Utilities. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

6-8-11 FAILURE TO OBTAIN PERMIT; REMEDIES. Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

6-8-12 INSPECTION AND APPROVAL. Upon final completion, the Superintendent of Public Utilities shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the Superintendent of Public Utilities shall indicate this on both copies of the permit.

6-8-13 BARRICADES AND WARNING LIGHTS. Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

6-8-14 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is 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 or warning device provided by this chapter.

6-8-15 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR. The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.

(Code of Iowa, Sec. 384.38)

6-8-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS. When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

6-8-17 HEARING AND ASSESSMENT. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)



6-8-18 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

6-8-19 ADAAG COMPLIANCE. All construction, repair, and maintenance of sidewalks shall comply with Americans with Disabilities Guidelines (ADAAG).

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 9 BUILDING AND LAND USE REGULATIONS

6-9-1	Purpose	4-9-14	Certificate of Occupancy
6-9-2	Building Official	6-9-15	Contents of Certificate of Occupancy
6-9-3	Permit Required		
6-9-4	Application	6-9-16	Restricted Residence District
6-9-5	Amendments	6-9-17	Notice Requirements
6-9-6	Subdivision Regulations	6-9-18	Front Yard Requirements
6-9-7	Application Approved	6-9-19	Side Yard Requirements
6-9-8	Erosion Control	6-9-20	Rear Yard Requirements
6-9-9	Action by Council	6-9-21	Detached Garage
6-9-10	Restrictions	6-9-22	Prohibited Use
6-9-11	Condition of the Permit	6-9-23	Exceptions
6-9-12	Revocation	6-9-24	Certifying Ordinances
6-9-13	Permit Void	6-9-25	Abatement of Violation

6-9-1 PURPOSE. The purpose of this chapter is to provide and establish reasonable rules and regulations for the erection, reconstruction, altering and repairing of buildings of all kinds, as well as the use and occupancy of such buildings to promote the health, morals, safety and general welfare in the City.

(Code of Iowa, Sec. 364.1)

6-9-2 BUILDING OFFICIAL. The Mayor and delegate shall be the building official and be responsible for the administration and enforcement of this chapter.

6-9-3 PERMIT REQUIRED. No building or other structure shall be erected, altered, used or occupied within the City without first receiving a permit therefor. A permit is required for exterior work only, such as additions, fences and decks, or for work that would change the outside dimensions of the building. A permit is not required for roofing or siding a building.

6-9-4 APPLICATION. Application shall be made in writing, filed with the building official and contain the following information:

1. Name. The name and address of the applicant.
2. Location. The street address and full legal description of the property.
3. Proposed Work. The nature of work proposed to be done.
4. Use. The use for which the structure is or will be used.
5. Plans. Application for permits shall be accompanied by such drawings of the proposed work, drawn to scale, including such floor plans, sections, elevations, and structural details, as the building official may require.
6. Plot Diagram. There shall also be filed a plot diagram in a form and size suitable for filing permanently with the permit record, drawn to scale, with all dimensions figured, showing accurately the size and exact location of all proposed new

construction or, in the case of demolition, of such construction as is to be demolished and of all existing buildings.

6-9-5 AMENDMENTS. Nothing shall prohibit the filing of amendments to an application or to a plan or other record accompanying same, at any time before the completion of the work for which the permit was sought. Such amendments, after approval, shall be filed with and be deemed a part of the original application.

6-9-6 SUBDIVISION REGULATIONS. No more than two (2) building permits for each separate tract existing as of December 31, 1977, shall be issued unless the tract has been platted in accordance with subdivision regulations established in the Code of Ordinances, except that this provision shall not limit the number of building permits that may be issued for accessory buildings or additions or improvements to a main or accessory building already legally located upon said tract.

6-9-7 APPLICATION APPROVED. It shall be the duty of the building official to examine applications for permits within a reasonable time after filing. If, after examination, the building official finds no objection to the same and it appears that the proposed work will be in compliance with the laws and ordinances applicable thereto, the building official shall forward findings to the Council for its approval or disapproval.

6-9-8 EROSION CONTROL. When a land disturbing activity, as defined by the Code of Iowa, is to occur as a part of a project for which a permit hereunder is sought, no permit shall be issued unless there is on file with the City a soil erosion control plan which covers the proposed project and is approved by the Soil Conservation District Commissioners.

(Code of Iowa, Sec. 467A.64)

6-9-9 ACTION BY COUNCIL. After receiving the findings of the building official, the Council shall, within a reasonable time, either approve or disapprove the application. If disapproved, the Council shall state its reasons for disapproval and notify the applicant of same. If approved, the Council shall instruct the building official to issue the building permit to the applicant. Said permit shall be issued in triplicate, one copy for the applicant, one copy for the County Assessor and one copy to be retained in the City records.

6-9-10 RESTRICTIONS. No permit for the erection, alteration, use or occupancy of a building or similar structure shall be granted unless it definitely appears that such erection, alteration, repair, use or occupancy shall not cause or be the source of the following:

(Code of Iowa, Sec. 414.24)

1. Noise. Any undue noise.
2. Electrical Interference. Any undue radio or television interference.
3. Odors. Any offensive odors.
4. Refuse. Any offensive or unsightly refuse.
5. Smoke. Any offensive or undue smoke.
6. Fire Hazard. Any fire hazard.

7. Appearance. Any unsightliness due to the appearance of any building or structure on the premises.
8. Congestion. Any undue gathering, congregating, parking of cars, or undue congestion of people or traffic.
9. Other. Any effect which will be obnoxious, offensive, dangerous or injurious to the health, welfare and safety of citizens.

6-9-11 CONDITION OF THE PERMIT. All work performed under any permit shall conform to the approved application and plans, and approved amendments thereof. The location of all new construction as shown on the approved plot diagram, or an approved amendment thereof, shall be strictly adhered to. It shall be unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a street opening or widening or other public improvement.

6-9-12 REVOCATION. The building official may revoke a permit or approval issued under the provisions of this chapter in case there has been any false statement or misrepresentation as to a material fact in the application or plans on which the permit or approval was based.

6-9-13 PERMIT VOID. In the event that construction covered by a permit is not initiated and under way within six (6) months from the date of issuance of a permit, such permit shall be deemed void and of no effect.

6-9-14 CERTIFICATE OF OCCUPANCY. No building shall be occupied or the use of a parcel of land be changed before a certificate of occupancy has been issued. A certificate of occupancy shall be applied for coincident with the application for a building permit and said certificate shall be issued within three (3) business days after the request for same shall have been made in writing to the building official after the erection or alteration of a building or change in the use of a parcel of land shall have been completed, in conformity with the provisions of these regulations. Pending the issuance of the regular certificate, a temporary certificate of occupancy may be issued by the building official for a period not exceeding one year, during the completion of alterations or during partial occupancy of a building pending its completion. Such temporary certificate shall not be construed as in any way altering the respective rights, duties or obligations of the owners or of the tenants relating to the use or occupancy of the premises or any other matter covered by these regulations and such temporary certificate shall not be issued except under such restrictions and provisions as will adequately insure the safety of the occupants.

6-9-15 CONTENTS OF CERTIFICATE OF OCCUPANCY. A certificate of occupancy shall state that the building or proposed use of a building or land complies with all the building and health laws and ordinances and with the provisions of these regulations. A record of all certificates shall be kept on file in the office of the building official and copies shall be furnished, on request, to any person having a proprietary or tenancy interest in the building affected. No fee shall be charged for a certificate of occupancy.

6-9-16 RESTRICTED RESIDENCE DISTRICT. The following area is hereby defined and established as a restricted residence district:

All of the City of Odebolt except:

1. Blocks A, B. One, Two, Four and Five, Original Town Plat.
2. Lot One, and Lots Eight, Nine, Ten and Eleven, Block Six, Original Town Plat.
3. Blocks Six, Ten, Twelve and Thirteen, Wheeler's Second Addition.
4. Lots One, Two, Three, Four and Five, Block Two, Wheeler's Second Addition.
5. The east twenty ( 20) feet of Lot Two and all of Lot Three, Block One, Taggart's First Addition.
6. The east one-half of Block Two, Taggart's First Addition.
7. Lot One, Highland Park Addition to Odebolt, situated in the Northwest Quarter of Section 35, Township 87 North, Range 38 West of the 5th P.M., Sac County, Iowa.
8. Colonial Manors Addition to Odebolt.
9. The west one hundred ninety-nine (199) feet of Lot Ten of Highland Park Addition to Odebolt, situated in the Northwest Quarter of Section 35, Township 87 North, Range 38 west of the 5th P.M., Sac County, Iowa.
10. Lot Three, Block Five, Taggart's First Addition to Odebolt, and the north sixty-six (66) feet .eight (8) inches of Lot Four, Block Five, Taggart's First Addition to Odebolt.
11. Outlots Twenty-eight and Twenty-nine in Section 27, Township 87 North, Range 38 west of the 5th P.M., Sac County, Iowa.
12. Outlets One and Two in Section Thirty-four, Township 87 North, Range 38 West of the 5th P.M., Sac County, Iowa.
13. All of the right-of-way of the Chicago and Northwestern Railway company within the corporate limits in use as such on January 1, 1940.
14. Lots 1, 2, 3, 4, 5, 6, 7 and the west forty (40) feet of Lot 8; Block 23, second Addition to the City of Odebolt, Sac County, Iowa.
15. Lot 1, Block 7 ,. Original City of Odebolt, Sac County, Iowa.
16. Block 21, Wheeler's Second Addition to the City of Odebolt, Sac County, Iowa.
17. Block 21, Second Addition to the City of Odebolt, Sac County, Iowa.

18. All that part of Outlet Two (2), Section Twenty-seven (27), Township Eighty-seven (87) North, Range Thirty-eight (38) West of the 5th P.M., Sac County, Iowa, lying to the south of Iowa Highway No. 175 (formerly Iowa Highway No.35).
19. Commencing at the Northwest corner of Section Thirty-five (35), Township Eighty-seven (87) North, Range Thirty-eight (38) West of the 5th P.M., Sac County, Iowa; thence East along the Section line 578 feet; thence South 58 feet; thence West 322 feet; thence South 125 feet; thence West 256 feet; thence North to the point of beginning.  
(Passed and adopted October 4, 1993)
20. Lots Six, Seven and Eight (6,7, & 8), Block fifteen (15), Second Addition to Odebolt, Sac County, Iowa.  
(Passed and adopted June 5, 1995)
21. Lot Eleven (11), Highland Park Addition to Odebolt, Sac County, Iowa.  
(Passed and adopted September 4, 1996)
22. All of Block Eleven (11), Wheeler's Second Addition to Odebolt, Sac County, Iowa.  
(Passed and adopted January 4, 1999)
23. A part of the Northwest Quarter (NW 1/4) of the Northwest Quarter (NW 1/4) of Section Thirty-five (35), Township Eighty-seven (87) North, Range Thirty-eight (38) West of the 5th P.M., Sac County, Iowa, and being more fully described as follows:  
  
Commencing at a point that is 578 feet East and 58 feet South of the Northwest corner of said Section 35 which is the present City limits of Odebolt at that point; thence South 86 feet, thence East 172 feet, thence South to the right-of-way of the Chicago, Central and Pacific Railroad, thence Northwesterly along the right-of-way of said railway to the West line of said Section 35 (which is also the present city limits of the City of Odebolt, then along the present City limits of Odebolt to the point of beginning, as follows: North along the Section line 38 feet, East 256 feet, North 125 feet, East 322 feet to the point of beginning.
24. Lot One (1), Lot Two (2), Fourth Addition to the City of Odebolt.
25. Lots Five and Six (5 & 6), Block Twenty-two (22), Second Addition to the City of Odebolt.
26. Lots Six (6), Seven (7), Eight (8), Nine (9), Ten (10), and the West Half (W 1/2) of Lot Eleven (11), Block Seven (7), Wheeler's Second Addition to the City of Odebolt.
27. Lots Five and Six (5 & 6), Block Three (3), Original Town of Odebolt.  
(Passed and approved 7th day of September, 1999)

6-9-17 NOTICE REQUIREMENTS. Whenever a restricted residence district is established or changed, a public hearing must be held, notice of which shall be given at least seven (7) days in advance in the manner prescribed in Section 6-9-5. In no case shall the public hearing be held earlier than the next regularly scheduled City Council meeting following the published notice.

(Code of Iowa, Sec. 414.24)

6-9-18 FRONT YARD REQUIREMENTS. Within the restricted residence district there shall be a front yard of not less than twenty (20) feet, except as follows:

(Code of Iowa, Sec. 414.24)

1. Between Existing Buildings. Where a building is to be erected on a parcel of land that is within one hundred (100) feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the closest front corners of the adjacent buildings on the two (2) sides, or

2. Adjacent to Existing Building. Where a building is to be erected on a parcel of land that is within one hundred (100) feet of an existing building on one side only within the same block, such building may be erected as close to the street as a line drawn from the closest front corner of that building to a point twenty (20) feet back from the front lot line measured at the center of the lot on which the proposed building is to be erected.

3. Double Frontage. Where lots have a double frontage, the front yard as required herein shall be provided on both streets.

6-9-19 SIDE YARD REQUIREMENTS. Within the restricted residence district no building shall be erected closer than five (5) feet to either side lot line.

(Code of Iowa, Sec. 414.24)

6-9-20 REAR YARD REQUIREMENTS. Within the restricted residence district there shall be a rear yard provided for each principal building of not less than thirty (30) feet or twenty percent (20%) of the depth of the lot, whichever amount is smaller.

(Code of Iowa, Sec. 414.24)

6-9-21 DETACHED GARAGE. Within the restricted residence district, no detached garage or other accessory building not attached to the principal building shall be erected closer than five (5) feet to any side or rear yard line.

6-9-22 PROHIBITED USE. No building or other structure, except residences, school houses, churches and other similar structures, shall be erected, altered, repaired, used or occupied within the restricted residence district as defined herein without first receiving from the Council a special use permit therefor. No such special use permit shall be issued without the affirmative vote of three-fourths (3/4) of the full Council.

(Code of Iowa, Sec. 414.24)

6-9-23 EXCEPTIONS. The provisions of the preceding section shall have no application to any business, store, shop or factory existing and in operation in a restricted residence district on December 31, 1977, except in the matter of reconstruction, repair, alteration or change in use of the structure.

6-9-24 CERTIFYING ORDINANCES. Within fifteen (15) days of the effective date of the adoption of any amendments to the provisions of this chapter the Clerk shall certify such amendment to the County Recorder.

(Code of Iowa, Sec. 380.11)

6-9-25 ABATEMENT OF VIOLATION. Any building or structure erected, altered, repaired, used or occupied in violation of this chapter shall be determined a nuisance and the same may be abated by the City or by any property owner within said district in the manner provided for the abatement of nuisances.





## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 10 DANGEROUS BUILDINGS

6-10-1	Enforcement Officer	6-10-5	Conduct of Hearing
6-10-2	General Definition of Unsafe	6-10-6	Posting of Signs
6-10-3	Unsafe Building	6-10-7	Right to Demolish
6-10-4	Notice to Owner	6-10-8	Costs

6-10-1 ENFORCEMENT OFFICER. The Mayor shall be responsible for the enforcement of this chapter.

6-10-2 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, as specified in this chapter or any ordinance, 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])

6-10-3 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Collapse of Member. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
2. Wind Resistance. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of twenty (20) pounds per square foot.
3. Material Deterioration. Whenever any portion thereof has cracked, warped, buckled, or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
4. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
5. 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.

6. Exterior Walls. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.

7. Deterioration. Whenever the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty percent (50%) damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

8. Damaged Structurally. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

9. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, 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.

10. Fire Hazard. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.

11. Public Nuisance. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.

12. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

6-10-4 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 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 may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

6-10-5 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

6-10-6 POSTING OF SIGNS. The enforcement officer may cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF ODEBOLT, 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.

6-10-7 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

6-10-8 COSTS. Costs incurred under Section 130. 07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 11 FLOODPLAIN MANAGEMENT

6-11-1	Statutory Authority, Findings of Fact and Purpose	6-11-5	Penalties for Violation
6-11-2	General Provisions	6-11-6	Administration
6-11-3	Floodplain Management Standards	6-11-7	Nonconforming Uses
6-11-4	Definitions	6-11-8	Amendments
		6-11-9	Repealer

#### 6-11-1 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 Odebolt 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.

3. Statement of Purpose. It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of Odebolt 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 131.01B1 of this Ordinance with provisions designed to:

- a. 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.
- b. 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.

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

### 6-11-3 GENERAL PROVISIONS.

1. **Lands to Which Ordinance Apply.** The provisions of this Ordinance shall apply to all areas having special flood hazards within the jurisdiction of the City of Odebolt. For the purpose of this Ordinance, the special flood hazard areas are those areas designated as Zone A on the Flood Insurance Rate Map for the City of Odebolt, dated September 1, 1986, which is hereby adopted and made a part of this Ordinance.
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. When an interpretation is needed as to the exact location of a boundary, the Mayor 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 City of Odebolt 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 special flood hazard areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of Odebolt or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made hereunder.
7. **Severability.** If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

6-11-3 FLOODPLAIN MANAGEMENT STANDARDS. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where 100-year flood data has not been provided on the Flood Insurance Rate Map, 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 determination.

1. All development within the special flood hazard areas shall:
  - a. Be consistent with the need to minimize flood damage.
  - b. Use construction methods and practices that will minimize flood damage.
  - c. Use construction materials and utility equipment that are resistant to flood damage.
  - d. Obtain all other necessary permits from federal, state and local governmental agencies, including approval when required from the Iowa Department of Natural Resources.
  
2. Residential buildings- All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the 100-year , flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the 100-year flood level and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon.

Alternate methods of elevating (such as piers) may be allowed subject to favorable consideration by the City Council, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood.

3. Non-residential buildings- All new or substantially improved non-residential buildings shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the 100-year flood level, or together with attendant utility land sanitary systems, be floodproofed to such a level.

When flood proofing is utilized, a professional engineer registered in the State of Iowa shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 100-year flood; and that the structure, below the 100-year flood level is watertight with walls substantially impermeable to the passage of water.

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

4. All new and substantially improved structures:



- a. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:
  - (i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
  - (ii). The bottom of all openings shall be no higher than one foot above grade.
  - (iii). 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.

- b. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
- c. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built homes:

- a. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 1 00-year flood level.
- b. All factory-built homes, including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

6. Utility and Sanitary Systems:
  - a. On-site waste disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.
  - b. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.
  - c. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.
  - d. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.
7. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the 100- year flood level. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.
8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 1 00-year flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, the Department of Natural Resources shall approve structural flood control works.
9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, the Department of Natural Resources must approve such alterations or relocations.
10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this 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 100-year flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Special Flood Hazard Area.

11. Accessory Structures
  - a. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 1 00-year flood elevation requirements where the following criteria are satisfied.
    - (i). The structure shall not be used for human habitation.
    - (ii). The structure shall be designed to have low flood damage potential.
    - (iii). The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.
    - (iv). The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.
    - (v). The structure's service facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one foot above the 100-year flood level.
  - b. Exemption from the 1 00-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.
12. Recreational Vehicles. Recreational vehicles are exempt from the requirements of Section III 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 no permanently attached additions.
  - c. 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 131.03E of this Ordinance regarding anchoring and elevation of factory-built homes.
13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

6-11-4 ADMINISTRATION. The appointment, duties and responsibilities of floodplain administrator follow:

1. The Mayor is hereby appointed to implement and administer the provisions of this Ordinance and will herein be referred to as the Administrator. 2. Duties of the Administrator shall include, but not necessarily be limited to the following:
  - a. Review all floodplain development permit applications to assure that the provisions of this Ordinance will be satisfied.

- b. 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.
- c. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of all new or substantially improved structures in the special flood hazard area.
- d. Record and maintain a record of the elevation (in relation to National Geodetic Vertical Datum) to which all new or substantially improved structures have been flood proofed.
- e. 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.
- f. Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this Ordinance.

2. Floodplain Development Permit

6-11-5 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, excavation or drilling operations), including the placement of factory-built homes. 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. Indication of the use or occupancy for which the proposed work is intended.
- 4. Elevation of the 100-year flood.
- 5. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed.
- 6. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.
- 7. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.
- 8. 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 of Odebolt.

9. 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, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

6-11-6 VARIANCE The City Council of Odebolt 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:

1. Variances shall only be granted upon: (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

2. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

3. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (a) 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 (b) such construction increases risks to life and property.

4. Factors Upon Which the Decision of the 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 in 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.
  - 1. 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.
5. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board 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. Flood proofing measures.

6-11-7 NONCONFORMING USES. 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:

- 1. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this Ordinance.
- 2. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.
- 3. 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.

6-11-8 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 five-hundred dollars (\$500.00) or imprisoned for not more than thirty (30) days. Nothing herein contained prevent the City of Odebolt from taking such other lawful action as is necessary to prevent or remedy violation.

6-11-9 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 of the Department of Natural Resources.

6-11-10 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. A "Baseflood" is a flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).
2. A "Basement" is any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."
3. "Development" constitutes any man-made change to improved -or unimproved real estate, including but not limited to building 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, grading.
4. "Existing Construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community. May also be referred to as "existing structure".
5. "Existing factory-built home park or subdivision" is 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.
6. "Expansion of existing factory built home park or subdivision" is the preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a. minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. "Factory-built home" includes any structure, designed for residential use which is wholly or in substantial part, made, fabricated, formed or assembled f- manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory-built homes include mobile homes, manufactured homes, \and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

8. “Factory-built home park” is parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.
9. “Flood” is a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.
10. “Flood Elevation” is the elevation floodwaters should reach at a particular site during the occurrence of a specific flood. For instance, the 1 00-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.
11. “Flood Insurance Map (FIRM)” is the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.
12. “Floodplain” includes any land area susceptible to being inundated by water as a result of a flood.
13. “Floodplain Management” is 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, flood proofing and floodplain management regulations.
14. “Flood Proofing” includes any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.
15. “Floodway” is 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.
16. “Floodway Fringe” includes those portions of the floodplain, other than the floodway, which can be filled, levied, or otherwise obstructed without causing substantially higher flood levels or flow velocities.
17. “Historic Structure” includes 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.

18. “Lowest Floor” is the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of 131.03D1 of this Ordinance, and
- b. The enclosed area is unfinished (not carpeted, dry walled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 1 00-year flood level, and
- d. The enclosed area is not a "basement" as defined in this section. In cases where the lowest enclosed area satisfies criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

19. “Minor Projects” are small development activities (except for filling, grading and excavating) valued at less than \$500.

20. “New construction” means new buildings, factory-built home parks and 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.

21. “New factory built home park or subdivision” is 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.

22. “One hundred (100) year flood” is a flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded a least once every one hundred (100) years.

23. “Recreational Vehicle” is 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.
24. “Routing maintenance of existing buildings and facilities” includes 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.
25. “Special flood hazard area” is the land within a community subject to the "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.
26. “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.

27. “Structure” Includes anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.

28. "Substantial damage" is 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.

29. "Substantial Improvement" is 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 on or 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.

30. "Variance" is a grant of relief by a community from the terms of the floodplain management regulations.

31. "Violation" is the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 12 TREE MANAGEMENT

6-12-1	Purpose	6-12-4	Duty to Trim Trees
6-12-2	Definitions	6-12-5	Trimming Trees to be Supervised
6-12-3	Planting Restrictions	6-12-6	Removal of Trees

6-12-1 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Trees is to beautify and preserve the appearance of the City by regulating and providing for the planting, care and removal of trees.

6-12-2 DEFINITIONS. For use in these chapters, the following terms are defined:

1. "Parking" means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.
2. "Superintendent" means such person as may be designated by the council.

6-12-3 PLANTING RESTRICTIONS. No tree shall be planted in any street or parking except in accordance with the following:

1. Alignment. All trees hereafter planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb or in line with existing trees. 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, boxelder, chinese elm; or evergreens.

6-12-4 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 sixteen (16) feet above the surface of the street and eight (8) feet above the sidewalks.

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

6-12-5 PENALTY AND ASSESSMENT. If the abutting property owner fails to trim the trees as required in this chapter, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the same shall constitute a municipal infraction and the City may proceed as provided in Chapter 8 to collect civil penalties or secure injunctive relief, or the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

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

6-12-6 TRIMMING TREES TO BE APPROVED BY THE CITY. It shall be unlawful for any person to trim or cut any tree in a street or public place unless the work is approved by the City.

6-12-7 REMOVAL OF TREES. The superintendent shall remove, on order of the Council, any tree on the streets of the City which interferes with the making of improvements or with travel thereon. The superintendent shall additionally remove any trees on the street, not on private property, which are dead or have become diseased, or which constitute a danger to the public, or which may otherwise be declared a nuisance.

(Code of Iowa, Sec. 364.12 [2c] & 372.13 [4])

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 13 STREET CUTS AND EXCAVATIONS

6-13-1 Excavation Permit Required  
6-13-2 Application for Permit  
6-13-4 Safety Measures

6-13-5 Backfilling and Restoration  
6-13-6 Rules and Regulations

6-13-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk.

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

6-13-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the Clerk waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

6-13-3 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the County Sheriff's Department the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

6-13-4 BACKFILLING AND RESTORATION. Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the City reserves the right to backfill

and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, the Superintendent of Public Utilities is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

6-13-5 RULES AND REGULATIONS. The City Council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 14 PUBLIC PROPERTY AND RIGHT OF WAY

6-14-1 Purpose and Rule of Interpretation

6-14-3 By Reference

6-14-2 Franchise, License, Lease or Permit  
Required

6-14-4 Regulation by City

6-14-5 New Technologies

6-14-1 PURPOSE AND RULE OF INTERPRETATION. The city council finds it is necessary for the city to establish uniform rules and controls to ensure public safety and provide efficient delivery of services by city and others wishing to utilize streets and other public property for the delivery of utility or other services in order to protect public and private investment, ensure orderly use of public property and ensure the health, safety and welfare of the population, to provide for the regulation and administration of the public streets and other public property. This ordinance is to be interpreted in light of these findings for the benefit of the public and users of the streets and other public property.

6-14-2 FRANCHISE. LICENSE, LEASE OR PERMIT REQUIRED. No person or other entity shall use the public right of way or other public property without first obtaining a franchise, license, lease, or permit from the city. The city shall not enter into or issue any franchise, license, lease or permit that grants exclusive rights.

6-14-3 BY REFERENCE. All of the provisions of Chapter 175 of this Title VII apply to a franchise, license, lease or permits issued under this Chapter.

6-14-4 REGULATION BY THE CITY. The city reserves the right to make reasonable general regulations for the use of streets and other public property which unless otherwise specifically provided shall apply to any holder of a franchise, license, lease or permit.

6-14-5 NEW TECHNOLOGIES. Should, within the term of any franchise, license, lease or permit, developments within the field for which the grant was made offer to the holder thereof the opportunity to effectively, efficiently and economically serve its customers through use of a substance or material other than those for which the grant was originally made, then the holder of the franchise, license, lease or permit may petition, the city council which, with such requirements or limitation as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the franchise, license, lease or permit.





## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 15 VACATION AND DISPOSAL

6-15-1 Power to Vacate

6-15-4 Disposal of Vacated Streets or Alleys

6-15-2 Notice of Vacation Hearing

6-15-5 Disposal by Gift Limited

6-15-3 Findings Required

6-15-1 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street or alley or portion thereof, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

6-15-2 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.

6-15-3 FINDINGS REQUIRED. No street or alley, or portion thereof, shall be vacated unless the Council finds that:

1. Public Use. The street or alley proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

(Code of Iowa, Sec. 364.15)

6-15-3 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, or portion thereof, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

6-15-4 DISPOSAL BY GIFT LIMITED. The City may not dispose of a vacated street or alley, or portion thereof, by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7[3])

Section 1. The Council finds that the following portions of streets and alleys are not needed for public use, will not deny reasonable access to abutting owners and in its judgment finds that the best interest of the City require that the following portions of streets and alleys in the City of Odebolt should be vacated and the same are hereby vacated:

- a. A portion of the alley in Block Thirty-nine (39), Fourth Addition to Odebolt, Iowa, lying south of Lot Six (6) in Block Thirty-nine (39), Fourth

Addition to Odebolt, Iowa, be vacated, to wit; the North two (2) feet of the West ninety-five (95) feet of the East One Hundred Fifty (150) feet thereof.

(Passed and adopted November 2, 1992)

- b. All of Seventh Street between Block Ten (10), Taggart's Second Addition and Blocks Seven, Eight, and Nine (7, 8, and 9), Taggart's Second Addition.
- c. All of the alley in Block Eight (8), Taggart's Second Addition.
- d. That portion of the alley in Block Nine (9), Taggart's Second Addition extending from the north edge of Lot Four (4) to Seventh Street.
- e. Walnut Street from the north edge of Lot Seven (7), Block Nine (9), Taggart's Second Addition to Seventh Street.
- f. Maple Street from the south edge of Sixth Street to Seventh Street, subject to the condition that the owners of Lots Five, Six, and Seven (5, 6, and 7) in Block Seven (7), of Taggart's Second Addition shall be permitted to have the right at all times to have reasonable access to said property, and reserving easement to service all utilities now in place.

Section 2. Pursuant to the provisions of Section 3 54.23 of the Code of Iowa all of said property above described is hereby conveyed to the Odebolt-Arthur Community School District, the adjoining owner, without any cash consideration being paid for mutual benefit of all parties; subject only to the requirement that reasonable access be permitted to the owners of Lots Five, Six and Seven (5, 6, and 7), Block Seven (7) Taggart's Second Addition to Odebolt, Sac County, Iowa, and reserving easement to service all utilities now in place.

(Passed and adopted December 7, 1998)

Section 3. The Council finds that the following street is not needed for public use, will not deny reasonable access to abutting owners and in its judgment finds that the best interest of the City requires that the following street in the City of Odebolt should be vacated and the same is hereby vacated:

All of First Street between Maple and Walnut Street.

Section 4. Pursuant to the provisions of Section 354.23 of the Code of Iowa all of said property above described is hereby conveyed to the Farmers Cooperative Company, the adjoining owner, for the sum of Three Thousand Five Hundred Dollars (\$3,500.00), reserving easement to service all utilities now in place.

(Passed and adopted June 23, 2005)

Section 5. The Council finds that the following street and bridge are not needed for public use, will not deny reasonable access to abutting owners and in its judgment finds that the best interest of the City requires that the following street and bridge in the City of Odebolt should be vacated and the same is hereby vacated:

That portion of Richland Avenue between Pine Street and Odebolt Street.

Section 6. Pursuant to the provisions of Section 3 54.23 of the Code of Iowa all of said property above described is hereby conveyed to Robert J. Neville and Delores M. Neville husband and wife, as joint tenants with full rights of survivorship, and not as tenants in common, the adjoining owners, without any cash consideration being paid for mutual benefits of all parties, and reserving easement to service all utilities now in place.

(Passed and adopted November 6, 2006)

#### EDITOR'S NOTE

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

<u>ORDINANCE NO.</u>	<u>ADOPTED</u>
	Prior to 1900
	Prior to 1900
54	8-23-30
56	undated
60	3-4-57
67	1-13-64
68	7-6-64
69	undated
	7-6-87
	4-4-88



TITLE VI PHYSICAL ENVIRONMENT

CHAPTER 16 STREET GRADES

6-16-1 Established Grades

6-16-2 Record Maintained

6-16-1 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

6-16-2 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

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

<u>ORDINANCE NO.</u>	<u>ADOPTED</u>
34	12-2-40
43	12-4-40



## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 17 NAMING OF STREETS

6-17-1 Naming New Streets

6-17-3 Recording Street Names

6-17-2 Changing Name of Street

6-17-1 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.

6-17-2 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

6-17-3 RECORDING STREET NAMES. Following official naming or changing the name of a street, the Clerk shall copy thereof with the County Recorder, County Auditor and Assessor.

(Code of Iowa, Sec. 409A.26)





## TITLE VII SPECIAL ORDINANCES

### CHAPTER 1 NATURAL GAS FRANCHISE

AN ORDINANCE GRANTING TO MIDAMERICAN ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE IN THE CITY OF ODEBOLT, IOWA, A NATURAL GAS SYSTEM AND TO FURNISH AND SELL NATURAL GAS TO THE CITY AND ITS INHABITANTS FOR A PERIOD OF 20 YEARS.

7-1-1	Franchise Granted	7-1-6	Indemnification
7-1-2	Restrictions and Limitations	7-1-7	Successors and Assigns
7-1-3	Excavations	7-1-8	Quantity and Quality
7-1-4	Construction of Public Improvements	7-1-9	Protection of Facilities
7-1-5	Restoration of Surfaces/Streets	7-1-10	Rights and Privileges
		7-1-11	Repeal of Prior Franchises

7-1-1 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 Odebolt, Iowa, hereinafter called the "City", a gas distribution system, to furnish natural gas along, under and upon the 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. This franchise shall be effective for a twenty (20) year period from and after the effective date of this ordinance, provided however, that if during year one through five, the Company no longer has an employee residing at Odebolt, the City may terminate the franchise at the end of year five. If during year six through year ten, the Company no longer has an employee residing at Odebolt, the City may terminate the franchise at the end of year ten. If during year eleven through year fifteen the Company no longer has an employee residing at Odebolt, the City may terminate the franchise at the end of year fifteen. If during year sixteen through year twenty the Company no longer has an employee residing at Odebolt, the City may terminate the franchise at the end of year twenty. If the population of Odebolt drops below 90% of the official 2000 census then the requirements to have an employee residing at Odebolt is no longer a consideration for terminating the franchise.

7-1-2 RESTRICTIONS AND LIMITATIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 1999, or as subsequently amended or changed. The franchise shall not restrict the right of the City in the exercise of any power which it now has or may hereafter be authorized or permitted by the laws of the State of Iowa.

7-1-3 EXCAVATIONS. 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 interfere with the construction of any water pipes,

drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

7-1-4 CONSTRUCTION OF PUBLIC IMPROVEMENTS. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley or public improvements, which alternative route would not cause the relocation of the Company installations, the City shall select said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities, and said other franchisee's or user's cost of relocation is less than the Company's cost of relocation, the City shall select the route which requires the other franchisees or users to relocate. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

7-1-5 RESTORATION OF SURFACES/STREETS. 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 the original condition as nearly as practicable.

7-1-6 INDEMNIFICATION. Company shall indemnify and save harmless City from any and all claims, suits, losses, damages, costs or expenses on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by Company's negligence in construction, reconstruction, excavation, operation or maintenance of the gas utilities 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 arising from the negligence of the City, its officers, employees or agents.

7-1-7 SUCCESSORS AND ASSIGNS. 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.

7-1-8 QUANTITY AND QUALITY. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

7-1-9 PROTECTION OF FACILITIES. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

7-1-10 RIGHTS AND PRIVILEGES. This ordinance and the rights and privileges herein granted shall not become effective or binding until this ordinance has been approved in accordance with Iowa law. The cost and expense of this election relating to the franchise provided for herein shall be paid by the Company. Within thirty (30) days after the approval of this ordinance, the Company shall file in the office of the clerk of City its acceptance in writing of all the terms and provisions of this ordinance.

7-1-11 REPEAL OF PRIOR ORDINANCES. Upon the effective date of this ordinance, all prior gas franchises granted to Company to furnish natural gas service to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

PASSED AND APPROVED the 1st day of November, 1999

Published the 18th day of November, 1999

Voter approved the 14th day of December, 1999



## TITLE VII SPECIAL ORDINANCES

### CHAPTER 2 ELECTRIC FRANCHISE

7-2-1 Franchise Granted	7-2-7 Regulations
7-2-2 Restrictions and Limitations	7-2-8 Quantity and Quality
7-2-3 Moving Structures and Equipment	7-2-9 Protection of Facilities
7-2-4 Public Improvements	7-2-10 Rights and Privileges
7-2-5 Excavations	7-2-11 Repeal Prior Franchise
7-2-6 Indemnification	

7-2-1 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called the "Company", and its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City of Odebolt, Iowa, hereinafter called the "City" a system for the transmission and distribution of electric energy along, under, over and upon the streets, avenues, alleys and public places to serve customers within and without the City, and to furnish and sell electric energy to the City and its inhabitants. This franchise shall be effective for a twenty (20) year period from and after the effective date of this ordinance, provided however, that if during year one through year five, the Company no longer has an employee residing at Odebolt, the City may terminate the franchise at the end of year five. If during year six through year ten, the Company no longer has an employee residing at Odebolt, the City may terminate the franchise at the end of year ten. If during year eleven through year fifteen the Company no longer has an employee residing at Odebolt, the City may terminate the franchise at the end of year fifteen. If during year sixteen through year twenty the Company no longer has an employee residing at Odebolt, the City may terminate the franchise at the end of year twenty. If the population of Odebolt falls below 90% of the official 2000 census then the requirements to have an employee residing at Odebolt is no longer a consideration for terminating the franchise.

7-2-2 RESTRICTIONS AND LIMITATIONS. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 1999, or as subsequently amended or changed. This franchise shall not restrict the right of the City in the exercise of any power which it now has or may hereafter be authorized or permitted by the laws of the State of Iowa.

7-2-3 MOVING STRUCTURES AND EQUIPMENT. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as excavate and bury conductors for the distribution of electric energy in and through the City, but all said conduits and poles shall be placed as not to interfere with the construction of any water pipes, drain or sewer, or the flow of water therefrom, which have been or may hereafter be located by authority of the City. The Company is authorized and empowered to cut and trim at its expense, any trees extending into any street, alley, or public ground so as to prevent limbs or branches from interfering with the wires and facilities of the Company.

7-2-4 PUBLIC IMPROVEMENTS. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley or public improvements which alternative route would not cause the relocation of the Company installations, the City shall select said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities, and said other franchisee's or user's cost of relocation is less than the Company's, the City shall select the route which requires the other franchisees or users to relocate. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

7-2-5 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the excavation of conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable.

7-2-6 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, caused or occasioned in whole or in part by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric 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 arising from the negligence of the City, its officers, employees or agents.

7-2-7 REGULATIONS. The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

7-2-8 QUANTITY AND QUALITY. During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

7-2-9 PROTECTION OF FACILITIES. All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

7-2-10 RIGHTS AND PRIVILEGES. This ordinance and the rights and privileges herein granted shall not become effective or binding until this ordinance has been approved in accordance with Iowa law. The cost and expense of any municipal election relating to the ordinance and franchise shall be paid by the Company. Within thirty (30) days after the approval of this ordinance, the

Company shall file in the office of the clerk of the City its acceptance in writing of all the terms and provisions of this ordinance.

7-2-11 REPEAL PRIOR FRANCHISES. Upon the effective date of this ordinance, all prior electric franchises granted to the Company to furnish electric service to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

PASSED AND APPROVED this 1st day of November, 1999  
Published the 18th day of November, 1999  
Voter approved the 14th day of December, 1999





## TITLE VII SPECIAL ORDINANCES

### CHAPTER 3 TELEPHONE FRANCHISE

7-3-1 Franchise Granted

7-3-3 Indemnification of City

7-3-2 Authority of City

7-3-4 Trimming and Removal of Trees

7-3-1 FRANCHISE GRANTED. A nonexclusive franchise is hereby granted to the Sac County Mutual Telephone Company, an Iowa corporation, its successors and assigns, for a period of twenty-five (25) years from and after the approval of the ordinance codified by this chapter for the right to use and occupy the streets, alleys and other public places of the City to construct, maintain and operate a telephone and telegraph system within said City.

7-3-2 AUTHORITY OF CITY. The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the City.

7-3-5 INDEMNIFICATION OF CITY. Sac County Mutual Telephone Company shall fully protect the City from any and all claims of any nature whatsoever which may be made against the City by reason of the construction, maintenance or operation of the system.

7-3-6 TRIMMING AND REMOVAL OF TREES. Sac County Mutual Telephone Company shall have the right, under the supervision of the Council, or such persons as the Council may designate, to trim or remove trees whenever necessary for the efficient operation of its plant and the furnishing of service.

#### EDITOR'S NOTE

An Ordinance granting a telephone franchise for the City was passed and adopted on May 2, 1983.



## TITLE VII SPECIAL ORDINANCES

### CHAPTER 4 CABLE TV FRANCHISE AND REGULATIONS

7-4-1	Definitions	7-4-14	Schedule of Rates
7-4-2	Grant of Non-Exclusive Authority	7-4-15	Conformance with Codes
7-4-3	Territorial Area Involved	7-4-16	Location of Lines
7-4-4	Technical Standards	7-4-17	Surface Repair
7-4-5	Service Available During Emergency	7-4-18	Other Franchise Holders
7-4-6	Transfer of Franchise	7-4-19	Street Changes
7-4-7	Unauthorized Cable System Tapping	7-4-20	Moving Buildings in City
7-4-8	Indemnity	7-4-21	Trimming Trees
7-4-9	Separability	7-4-22	Underground Cable
7-4-10	Furnishing Service	7-4-23	Repairs
7-4-11	Location of Equipment	7-4-23	Service To Schools
7-4-12	Equipment of Other Franchise Holders	7-4-25	Service To City
7-4-13	Plat of Installations	7-4-26	Public Access Channel
		7-4-27	Miscellaneous

7-4-1 DEFINITIONS. For the purposes of this Ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number, The word "shall" is always mandatory and not merely directory.

1. "City" is the City of Odebolt, Iowa.
2. "Council" is the City Council of the City of Odebolt, Iowa.
3. "Cable Television System" or "Cable System" is a system utilizing fiberoptic (glass) cable, coaxial cable or other comparable or superior media and certain electronic and other components which deliver to subscribing members of the public various Cable Television communications services.
4. "Cable Television Service" or "Service" means the delivery by the Grantee to television receivers (or any other suitable type of audio-video communications receivers) of the signals of over-the-air television broadcast stations, satellite programming services and other video programming sources authorized for transmission over cable television systems by the Federal Communications Commission; and additional closed circuit channels at the option of the Grantee.
5. "Cable Service" means cable television service.

6. "FCC" means the Federal Communications Commission.
7. "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind and any other legally recognized entity.
8. "Grantee" is Comserv, Ltd. in accordance with the provisions of this franchise.
9. "Subscribers" are those persons contracting to Receive Cable Service from Grantee.

7-4-2 GRANT OF NON-EXCLUSIVE AUTHORITY. There is hereby granted by the City to Grantee the non-exclusive franchise, right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a Cable Television System for the purpose of distributing and receiving television and radio signals and other electronic impulses in order to furnish Cable Service to the public.

7-4-3 TERRITORIAL AREA INVOLVED. This franchise relates to the present territorial limits of the City and to any area henceforth added thereto during the term of this franchise.

7-4-4 TECHNICAL STANDARDS. Grantee shall at all times comply with all rules and regulations of the Federal Communications Commission and any other duly authorized agency of the United States of America, all laws duly enacted now or hereafter by the United States Congress and all regulations of the Iowa Utilities Board. Without limiting the generality of the foregoing, the Cable Television System shall meet all applicable FCC technical standards as of the effective date of this franchise and shall conform to such standards and all amendments thereto during the term of this Franchise. This Ordinance shall be deemed conformed, without further action of the Council or Grantee, to any and all rules and regulations relating to the required terms of cable television franchises which are now in effect or which may hereafter be adopted by the FCC or any other duly authorized agency of the United States of America, as of the effective date thereof

7-4-5 SERVICE AVAILABLE DURING EMERGENCY. In the case of an emergency or disaster, the Grantee shall, upon request of the Council, make available its facilities to the City for emergency use during the emergency or disaster period.

7-4-6 TRANSFER OF FRANCHISE. The Grantee shall have the right to transfer this franchise upon sixty (60) days written notice served to the Council.

7-4-7 UNAUTHORIZED CABLE SYSTEM TAPPING.

- A. Unauthorized Service Prohibited. It shall be unlawful for any person or persons to obtain any Cable Service from Grantee by installing, rearranging or tampering with any facilities or equipment of Grantee, unless the same is done with the knowledge of and with the permission of the Grantee.
- B. Penalty For Violation Of This Section. Any person or persons found guilty of a violation of any of the provisions of this section shall be deemed guilty of a misdemeanor. Each day of violation shall constitute a separate offense.

7-4-8 INDEMNITY. Grantee shall at all times protect, indemnify, and hold harmless the City from all claims, actions, suits, liability, loss, expense or damage of any and every kind and description, including investigation costs, court costs and attorney fees, which may accrue to or be suffered or claimed by any person or persons arising out of any negligence, fault or misconduct of the Grantee, its agents, officers, servants and employees, including but not limited to construction, repair, maintenance or operation of the Cable System and by reason of any license, copyright, property right, patent or workers' compensation claims. Grantee shall maintain in full force and effect liability insurance in one or more solvent insurance companies authorized to do business in Iowa insuring the City and Grantee with regard to all damages and claims in reasonable amounts to be determined from time to time by the Council. The initial amount of liability insurance required shall be \$300,000 per claim. Upon request of the Council, Grantee shall provide a complete copy of the policies then in effect to the Council.

7-4-9 SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

#### CONSTRUCTION AND OPERATIONS PROVISIONS

7-4-10 FURNISHING SERVICE. Grantee shall, during the period of this Ordinance, furnish reasonable, adequate, and efficient Cable Television Service to the residents of the City, and Grantee shall maintain its Cable Television System in reasonable repair and working order and provide adequate facilities for such maintenance. The requirements of this subsection shall be temporarily suspended in the event such suspension is required for maintenance or improvement of Grantee's Cable System or in the event of natural disaster or emergency conditions or other circumstances beyond the control of Grantee.

7-4-11 LOCATION OF EQUIPMENT. Grantee's plant and equipment, including any antenna site, headend, distribution system, structures, poles, wires, underground cable, and appurtenances

shall be installed in accordance with good engineering practices, and shall be located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated so as not to endanger or interfere with the lives or property of persons or other franchise holders or to interfere with the improvements the City may deem proper to make, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places, and structures. Erection, installation, construction, replacement, removal, repair, maintenance and operation of the system shall be in accordance with the provisions of the National Electrical Code and National Electric Safety Code (as the same may be applicable) and such applicable laws of the United States, State of Iowa and applicable Ordinances of the City which may now be in effect or enacted in the future. All installations shall be of a permanent nature, durable and maintained in a safe, suitable and substantial condition, in good order and repair- and shall be aesthetically pleasing wherever possible. The location of said existing and proposed installations shall be subject to the approval of the Council. The Council shall have authority to inspect and supervise all installation and construction.

7-4-12 EQUIPMENT OF OTHER FRANCHISE HOLDERS. The City hereby grants the right, privilege and authority to Grantee to lease, rent or in any other legal manner obtain the use of poles with overhead lines, conduits, trenches, ducts, lines, cables and other equipment and facilities from any and all holders of public licenses and franchises within the corporate limits of the City and to use such poles, conduits, trenches, ducts, lines and cables in the course of its business.

7-4-13 PLAT OF INSTALLATIONS. Grantee shall file with the City Clerk a copy, true and accurate, of maps and/or plats of all existing and proposed installations on, over or under the streets, trails, alleys, sidewalks, parking area or other property owned by the City or over which the City has an easement. These maps and plats shall conform to the requirements of the City and shall be kept continuously up to date.

7-4-14 SCHEDULE OF RATES. Grantee shall at all times maintain on file with the City Clerk a schedule setting forth all rates and charges to be made to subscribers, including those for additional channels and services other than basic-tier service. Grantee shall not increase its rates without giving the Council and subscribers sixty (60) days advance notice.

7-4-15 CONFORMANCE WITH CODES. Grantee shall be required to conform to all present and future applicable City building codes including but not limited to plumbing and electrical codes and any ordinances providing for the manner and method of cutting streets, excavations in the right of way, backfills, etc. Grantee shall restore all property of the City, and all other property located in the City, to its original condition after the installation of either overhead or underground cable or any other equipment of or by Grantee.

7-4-16 LOCATION OF LINES. All transmission and distribution structures, lines and equipment erected by Grantee within the City shall be so located as to cause minimum interference with the

proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of the City and of property owners who adjoin any of the said streets, alleys, or other public ways and places, and with other franchise holders and to be aesthetically pleasing wherever possible.

7-4-17 SURFACE REPAIR. In case of any disturbance of pavement, sidewalk, driveway, grass or other surfacing, Grantee shall, at its own cost and expense, and in a manner approved by the City, replace and restore all paving, sidewalk, driveway or other surfacing disturbed to at least as good a condition as before said work was commenced.

7-4-18 OTHER FRANCHISE HOLDERS. Grantee shall cooperate with the other City franchise holders.

7-4-19 STREET CHANGES. If at any time during the period of this Ordinance, the City shall elect to alter in any way, including change of grade of, any street, alley, trail or public way, or any other property owned by the City or over which the City has an easement, Grantee upon reasonable notice by the City, shall remove, relay and relocate its poles, wires, cable, underground conduits, manholes and other fixtures at Grantee's own expense.

7-4-20 MOVING BUILDINGS IN CITY. Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit moving of buildings. The reasonable expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same; and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes. ·

7-4-21 TRIMMING TREES. Grantee shall have the authority to trim trees hanging over the streets, alleys, sidewalks and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of Grantee.

7-4-22 UNDERGROUND CABLE. In all sections of the City where the cables, wires, or other like facilities of other public utilities are placed underground, Grantee shall place its wires, cables or other like facilities underground to the maximum extent that technology existing at the time reasonable permits Grantee to do so.

7-4-23 REPAIRS. Grantee shall furnish and maintain a toll-free telephone number available to subscribers twenty-four (24) hours a day (with recorder or similar device for telephone calls outside normal business hours) for complaints and requests for repairs. Grantee shall maintain a repair and "trouble shooting" force capable of locating, correcting and repairing all problems, malfunctions and inadequate reception of the Cable Television System and Cable Television Service in accordance with applicable regulations of the FCC and Iowa Utilities Board. Grantee shall maintain a subscribers' complaint procedure capable of resolving subscribers' complaints.



## SERVICE TO SCHOOLS AND CITY

7-4-24 SERVICE TO SCHOOLS. Grantee shall provide service to each public and parochial school location within the City upon request. Grantee shall be entitled to charge an amount equal to its actual cost for labor and materials for each such installation. Thereafter, Grantee shall provide basic tier service to each school at which it has made such installation without charge. If any school requests installation of additional outlets, Grantee may charge for the installation thereof an amount equal to its actual cost for labor and materials for each such additional installation but shall not make any further charge for providing basic-tier service thereto.

7-4-25 SERVICE TO CITY. Grantee shall also provide to the City one (1) connection to be selected by the Council with regular service to all sets connected within the building to the terminal junction without charge.

7-4-26 PUBLIC ACCESS CHANNEL. Grantee shall carry the programming of one ( 1) public access channel as part of the basic tier service Package, at no additional charge to its customers, provided, however, that Grantee shall not be required to pay any portion of the cost of equipping and maintaining such public access channel, of connecting such public access channel to Grantee's Cable Television System or of generating the programming therefor.

7-4-27 MISCELLANEOUS.

A. Grantee's legal, character, financial, technical and other qualifications and the adequacy and feasibility of its construction arrangements have been approved by the Council after consideration in a full public proceeding affording due process to all interested persons.

B. The duration of this franchise shall be fifteen (15) years. Such term shall begin as of the effective date of this franchise.

C. Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to Grantee's business office. Should Grantee fail to satisfy a complaint, it may then be directed to the City Clerk for investigation. Complainants and Grantee shall be afforded a reasonable opportunity to present written statements of their position. The City Clerk shall attempt to resolve the complaint~ and if this cannot be achieved, the Clerk shall submit a recommendation to the Council, which shall either (1) dismiss the complaint, or (2) specify corrective steps to be taken by Grantee. Appeal from the Council's action may be made to the appropriate judicial or administrative forum.

D. This Ordinance shall be effective upon its passage, approval and publication as by law provided. The effective date of the franchise granted hereby shall be date of the filing of a written acceptance of the franchise by the Grantee with the City Clerk.

E. Upon the effective date of the franchise granted hereby, all ordinances, resolutions and other legislative acts theretofore adopted by the Council which are inconsistent with this Ordinance shall be, and the same hereby are repealed.

Passed and adopted the 4th day of September, 1996.  
Published the 19th day of September, 1996



TITLE VII SPECIAL ORDINANCES

CHAPTER 5 ODEBOLT URBAN RENEWAL AREA

- 7-5-1 Purpose
- 7-5-2 Definitions
- 7-5-3 Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area
- 7-5-4 Repealer
- 7-5-5 Severability Clause

7-5-1 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on taxable property in the Odebolt Urban Renewal Area, each year by and for the benefit of the state, 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 and interest on loans, moneys advanced or to indebtedness, including bonds proposed to be issued by the City of Odebolt to finance projects in such area.

7-5-2 DEFINITIONS. For use within this ordinance the following terms shall have the following meanings:

- 1. "City" shall mean the City of Odebolt, Iowa.
- 2. "County" shall mean the County of Sac, Iowa.
- 3. "Urban Renewal Area" shall mean the Odebolt Urban Renewal Area, the boundaries of which are set out as follows, such area having been identified in the Urban Renewal Plan approved and adopted by the Odebolt City Council by resolution on August 2, 1999:

A part of the Northwest Quarter (NW 114) of the Northwest Quarter (NW 1/4) of Section Thirty-five (35), Township Eighty-seven (87) North, Range Thirty-eight (38) West of the 5th P.M., Sac County, Iowa, and being more fully described as follows:

Commencing at a point that is 578 feet East and 58 feet South of the Northwest corner of said Section 35 which is the present city limits of Odebolt at that point; thence South 86 feet, thence East 172 feet, thence South to the right-of-way of the Chicago, Central and Pacific Railroad, thence Northwesterly along the right-of-way of said railway to the West line of said Section 3 5 (which is also the present city limits of the City of Odebolt), thence along the present city limits of Odebolt to the point of beginning, as follows: North along the Section line 38 feet, East 256 feet, North 125 feet, East 322 feet to the point of beginning.

7-5-3 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE URBAN RENEWAL AREA. After the effective date of this ordinance, 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 and 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 rolls 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 and for any taxing district which did not include the territory in the Urban Renewal Area 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 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 or to 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 this ordinance. 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 subsection (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 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 district 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 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.

7-5-4 REPEALER. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

7-5-5 SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Passed and approved this 2<sup>nd</sup> day of August, 1999  
Published the 8<sup>th</sup> day of August, 1999