
McCALLSBURG, IOWA

2016

CODE OF ORDINANCES

**CODE OF ORDINANCES
OF McCALLSBURG, IOWA
2016**

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TITLE I - POLICY AND ADMINISTRATION

CHAPTER 1

CITY CODE

SECTION 1. Title. This code of ordinances shall be known and may be cited as the City Code of the City of McCallsburg, Iowa, 2016.

SECTION 2. Definitions. Terms used in this city code, unless specifically defined otherwise in another section shall have the meaning prescribed as follows:

1. "City": shall mean the City of McCallsburg, Iowa.
2. "County": shall mean Story County, Iowa.
3. "State": shall mean the State of Iowa.
4. "Council": shall mean the city council of McCallsburg, Iowa.
5. "Clerk": shall mean the city clerk of McCallsburg, Iowa.
6. "Person": shall mean an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
7. "Ordinances": shall mean the ordinances of the City of McCallsburg, Iowa, as embodied in the city code, ordinances not repealed by the ordinance adopting the city code, and those enacted hereafter.
8. "City Code": shall mean the City Code of the City of McCallsburg, Iowa, 2016.
9. "Code": shall mean the specific chapter in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
10. "Measure": shall mean an ordinance, amendment, resolution, or motion.
11. "Statutes, Laws": shall mean the latest edition of the Code of Iowa, as amended.
12. "Preceding, Following": shall mean next before, and next after, respectively.

13. "Property": shall include real property, and tangible and intangible personal property unless clearly indicated otherwise.

14. "Property Owners": shall mean a person owning private property in the city as shown by the county auditor's plats of the city.

15. "Occupant, Tenant": applied to a building or land, shall include any person who occupies the whole or a part of such building or land, whether alone or with others.

16. "Year": shall mean the calendar year.

17. "Month": shall mean the calendar month.

18. "Writing, Written": shall include printing, typing, lithographing, or other mode of representing words or letters.

19. "Oath": shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn".

20. "Public Property": shall mean any and all property owned by the city or held in the name of the city by any of the departments, commissions, or agencies within the city government.

21. "Public Place": shall include in its meaning, but is not restricted to, any city-owned open place, such as parks and squares.

22. "Public Way": shall include any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

23. "Street": shall mean and include any public way, highway, street, avenue, boulevard, parkway, or other public thoroughfare, and each of such words shall include every other of them, and unless otherwise indicated in the text, shall include the entire width between the property lines.

24. "Alley": shall mean a public right-of-way, other than a street, affording secondary means of access to abutting property.

25. "Sidewalk": shall mean that portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line.

SECTION 3. Rules of construction. In the construction of the city code the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the council or repugnant to the context of the provisions.

1. Tense: words used in the present tense include the future.

2. May: confers to power.
3. Must: states a requirement.
4. Shall: imposes a duty.
5. Gender: the masculine gender shall include the feminine and neuter genders.

6. Interpretation: all general provisions, terms, phrases, and expressions contained in the city code shall be liberally construed in order that the true intent and meaning of the council may be fully carried out.

SECTION 4. Amendments. All ordinances which amend, repeal or in any manner affect the city code shall include proper reference to title, chapter, article, section, and subsection to maintain an orderly codification of ordinances of the city.

(Code of Iowa, 1985, Sec. 380.2)

SECTION 5. Catchlines and notes. The catchlines of the several sections of the city code, titles, headings, (chapter, article, section and subsection), editor's notes, cross references and state law references, unless set out in the body of the section itself, contained in the 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.

SECTION 6. Altering Code. It is unlawful for any person to change or amend by additions or deletions, any part or portion of the city code, or to insert or delete pages, or portions thereof, or to alter or tamper with the city code in any manner whatsoever which will cause the law of the city to be misrepresented thereby.

SECTION 7. Standard-penalty. Unless another penalty is expressly provided by the city code for any particular provision, section, chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the city code, or any rule or regulation adopted herein by reference shall be guilty of a misdemeanor and, upon conviction, be subject to a fine as provided for in Chapter 5, Municipal Infractions.

(Code of Iowa, 1985, Sec. 364.3 (2))

SECTION 8. Severability. If any section, provision or part of the city code 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.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 2

CHARTER

SECTION 1. Purpose. The purpose of this article is to provide for a charter embodying the form of government existing on July 1, 1974.

SECTION 2. Charter. This article may be cited as the Charter of the City of McCallsburg, Iowa.

SECTION 3. Form of government. The form of government of the City of McCallsburg, Iowa, is the Mayor-Council form of government.

SECTION 4. Powers and duties. The council and mayor and other city officers have such powers and shall perform such duties as are authorized or required by state law and by the ordinances, resolutions, and rules and regulations of the City of McCallsburg, Iowa.

SECTION 5. Number and term of council. The council consists of five (5) councilmen elected at large, elected for terms of four (4) years.

SECTION 6. Term of Mayor. The mayor is elected for a term of two (2) years.

SECTION 7. Copies on file. The city clerk shall keep an official copy of this 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.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 3

BOUNDARIES

SECTION 1. Purpose. The purpose of this article is to described the boundaries of the City of McCallsburg, Iowa.

SECTION 2. Boundaries. The boundaries of the City of McCallsburg, Iowa, shall be as follows, to-wit:

"BEGINNING AT THE SOUTHEAST CORNER OF THE SW 1/4 OF THE SW 1/4 OF SECTION 14-85-22; NORTH 759 FEET; WEST TO THE WEST LINE OF SECTION 14; EST 1,381 FEET; NORTH 150 FEET; WEST TO THE CENTER LINE OF THE SE 1/4 OF THE SW 1/4 IN SECTION 15-85-22; SOUTH TO THE CENTER LINE OF SECTION 22-85-22; EAST ALONG THE CENTER LINE TO THE SE CORNER OF THE SW 1/4 OF THE NE 1/4 OF SECTION 22- 85-22; NORTH TO THE SE CORNER OF THE NW 1/4 OF THE NE 1/4 OF SECTION 22-85-22; EAST TO THE SE CORNER OF THE NW 1/4 OF THE NW 1/4 OF SECTION 23-85-22; NORTH TO THE BEGINNING."

SECTION 3. Voting precincts. There shall be one voting precinct incorporating the City of McCallsburg, Iowa, with the polling place located in the City Hall/Fire Station.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 4

PUBLIC POSTING/OFFICIAL NEWSPAPER

SECTION 1. Purpose. Whereas there is no newspaper published in the City of McCallsburg, Iowa, and publication of ordinances or amendments may be made by posting in four (4) public places, the council desires to permanently designate four (4) public places so that citizens of the city may readily ascertain the acts of the council which affect them without doubt as to place of notice.

SECTION 2. Listing; length of notice. The Four (4) public places where ordinances or amendments are to be displayed are:

1. Post Office
2. State Bank
3. Holland's Garage
4. City Hall

The City Clerk is hereby directed to post such ordinances or amendments as soon as is practical upon the passage or re-passage of the ordinance or amendments and to leave them so posted for not less than seven (7) days after the first date of posting.

SECTION 3. Removing notice unlawful. Removal of a public notice of an ordinance or amendment by persons other than the City Clerk or Mayor shall make such persons subject to imprisonment not exceeding thirty (30) days or a fine not in excess of \$100.00. Such removal shall not invalidate the ordinance or amendment.

SECTION 4. Official newspaper. The City Council shall name an official newspaper by resolution for publishing notices required to be published.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 5

MUNICIPAL INFRACTIONS

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

1. "Municipal Infraction": Except for those violations specifically provided as a felony, an aggravated misdemeanor, or a serious misdemeanor under the State law or if the violation is a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa; the commission of any act prohibited or declared to be unlawful, an offense or a misdemeanor by this Code of Ordinances or any ordinance or code herein adopted by reference is a "municipal infraction" and is punishable by civil penalty as provided herein.

2. "Officer": Any employee or official authorized to enforce this Code of Ordinances. The Mayor is hereby authorized to designate employees or officials authorized to enforce this Code of Ordinances. The Mayor and/or the Story County Sheriff's office is specifically authorized to enforce the provisions of this chapter.

3. "Repeat Offense": A recurring violation of the same section of this code of Ordinances.

SECTION 2. Violations, penalties, and alternative relief. A municipal infraction is punishable by a civil penalty as provided in this section, unless a specific schedule of civil penalties is provided for specific offenses elsewhere in this Code of Ordinances.

1. Schedule of Civil Penalties:

A. First Offense-a minimum of \$250; but not to exceed \$750;

B. Second and all subsequent repeat offenses a minimum of \$750, but not to exceed \$1,000

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

3. Alternative Relief. Seeking a civil penalty as authorized in this chapter does not preclude the city from seeking alternative relief from the court in the same action, nor does the seeking of a civil penalty preclude the city from filing criminal charges for similar violations where provided by this Code of Ordinances or the Code of Iowa. Such alternative relief may include, but is not limited to, an order for abatement or injunctive relief.

SECTION 3. Civil citations. Any officer authorized by the city to enforce this Code of Ordinances may issue a civil citation to a person who commits a municipal infraction. The citation

may be served by personal service or by certified mail, return receipt requested. A copy of the citation shall be sent to the Clerk of the District Court, Ames Division, 515 Clark, Ames, Iowa 50010. 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 the 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.

SECTION 5. Criminal penalties. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation, nor does it preclude or limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 6

CITY ELECTIONS

SECTION 1. Purpose. The purpose of this chapter is to designate the method by which candidates for elective municipal offices in the city shall be nominated and elected.

SECTION 2. Nominating method to be used. All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.

SECTION 3. Nominations by petition. Nominations for elective municipal offices of the city may be made by nomination paper or papers signed by not less than ten (10) eligible electors, residents for the city.

SECTION 4. Adding name by petition. The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.

SECTION 5. Preparation of petition. Each eligible elector shall add to the signature the elector's residence address, and date of signing. Before filing said petition, there shall be endorsed thereon or attached thereto the affidavit of at least one (1) of the signers of said petition, which affidavit or affidavits shall show:

1. Name and residence. The name and residence (including street and number, if any) of said nominee, and the office to which nominated.

2. Qualified voter. That all of said signers are eligible electors of the state and entitle to vote for such nominee for such office.

3. Voluntary signature. That each of said petitioners voluntarily signed said petition. Such petition when so verified shall be known as a nomination paper.

SECTION 6. Filing - Presumption - Withdrawals - Objections. The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw, and the effect of such withdrawal, and the right to object to the legal sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the appropriate provisions of Chapter 44 of the Code of Iowa.

SECTION 7. Persons elected. The candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.

SECTION 8. Municipal election. The clerk shall do all things necessary for conducting the municipal election as required by Chapter 376, Code of Iowa.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 7

FINANCES AND RECORDS

SECTION 1. Purpose. The purpose of this ordinance is to create procedures for financial accounting, to regulate the retention and destruction of records, and to regulate purchase bidding.

SECTION 2. Fees and funds. All fees and funds collected for any purpose by any municipal officer shall be deposited with the City Clerk. If any said fees are due to an officer, they shall be paid to him by warrant/check drawn by the Clerk and approved by Council only upon such officer making adequate reports relating thereto as required by law, ordinance, or Council.

SECTION 3. Records, retention. The Clerk shall, upon order of the Council, destroy all records and papers other than the minutes of the Council proceedings, ordinances, and instruments having to do with real estate or bond issues, when such records are more than ten (10) years old, in accordance with law. Time-keeping records may be destroyed after two (2) years, and election records as provided by state law. The Clerk shall prepare a resolution for Council action each listing the records to be destroyed.

SECTION 4. Petty cash fund. The Clerk shall be custodian of a petty cash fund not to exceed \$50 for the payment of small claims, for minor purchases, collect-on-delivery, transportation charges, and small fees customarily paid at the time of rendering a service for which payments the Clerk shall obtain some form of receipt or bill acknowledged as paid by the vendor or his agent. At such time as the petty cash fund is approaching depletion the Clerk shall draw a warrant/check for replenishment in the amount of the accumulated expenditures and said warrant and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charges to the proper funds and accounts. It shall not be used for salary payments or other personal services or personal expenses.

SECTION 5. 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 warrant/checks written, which receipts and warrant/checks shall be prenumbered, in accordance with modern, accepted methods, and the requirements of the state. He shall keep a general ledger controlling all cash transactions, budgetary accounts and recording fund balances.

SECTION 6. Budget accounts. The Clerk shall set up such individual accounts to record receipts by source and expenditures by purpose as will provide adequate information and control budgetary purposes as planned and approved by Council and as required by state law. Each individual account shall be maintained within its proper fund as required by 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.

SECTION 7. Contingency accounts. Whenever the Council shall have budgeted for a contingency account, the Clerk shall set it upon in the accounting record, but he shall not charge any claim to a contingency account. Said contingency accounts may be drawn upon only by Council resolution directing a transfer to a specific purpose account within its proper fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency.

SECTION 8. Deposits. All monies belonging to the City shall be promptly deposited in a depository selected and approved by the Council in an amount not to exceed the allowed limitations established.

SECTION 9. Operating budget preparation. The annual operating budget of the City shall be prepared in accordance with the following:

1. Proposal prepared. The City Clerk shall be responsible for preparation of the annual budget detail, for review and adoption by the Mayor and Council in accordance with directives of the Mayor and Council.

2. Boards and commissions. All boards, commissions, and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the City Clerk for inclusion in the proposed city budget no later than January 1 of each year and in such form as may be required by the City Clerk.

3. Submission to Council. The City Clerk shall submit the completed budget proposal to the Council no later than February 15 of each year.

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

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

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

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

SECTION 10. Budget amendments. A City budget finally adopted for the following fiscal year become effective July 1 and constitutes the City appropriation for each program and purpose specified therein until amended as provided by this section.

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

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

3. Sub-program transfer. Any transfer of appropriation from one sub-program to another must be approved by resolution of the Council.

4. Activity transfers. The finance officer shall have the authority to adjust, by transfer or otherwise, the appropriation allocated to activities within a program or sub-program provided, however, that when such adjustments in any one activity aggregate One Thousand Dollars (\$1,000) or ten (10) percent of the amount appropriated, whichever is greater, no further adjustments shall be made without approval by resolution of the Council. All such transfers shall be reported in writing at the next regular meeting of the Council following the transfer and recorded in the minutes of the information of the Council and general public.

SECTION 11. Accounting. The accounting records of the City shall consist of not less than the following:

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

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

3. Checks. Checks shall be prenumbered and signed by the Clerk and Mayor following Council approval, except as provided by subsection 5 hereof.

4. Budget accounts. There shall be established such individual accounts to record receipts by source and expenditures by program, sub-program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be

immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

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

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

SECTION 12. Financial reports. The Clerk shall prepare and file the following financial reports:

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

2. Annual report. Not later than November first of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the published annual report must be furnished to the Auditor of State.

SECTION 13. Unauthorized expenditures. No City official, employee, or any person acting under color of such office or employment, shall knowingly make any contract or authorize any expenditure known by him or her to be in excess of that authorized by law.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 8

APPOINTMENT AND QUALIFICATIONS

SECTION 1. Purpose. The purpose of this article is to provide for the appointment and qualification, including the posting of proper bond, and the filling of vacancies, of the appointed municipal officers of the city.

SECTION 2. Creation of appointive officers. There are hereby created the following appointive officer. Clerk.

SECTION 3. Appointment of officers. All officers shall be appointed or selected by the Council unless otherwise provided by law or ordinance.

SECTION 4. Terms of appointive officers. The terms of all appointive officers that are not otherwise fixed by law or ordinance shall be two (2) years.

SECTION 5. Vacancies in office. A vacancy in an appointive office shall be filled in the same manner as the original appointment. A vacancy in an elective office shall be filled by a majority vote of all members of the Council.

SECTION 6. Bonds required. Each municipal officer required by law or ordinance to be bonded shall, before entering upon the duties of his office, execute to the City a good and sufficient bond, to be approved by the Mayor, conditioned of the faithful performance of his duties and the proper handling and accounting for the money and property of the City in his charge.

SECTION 7. 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.

SECTION 8. Amount of bonds. Each officer named shall be bonded in the amount shown:

1. Mayor - \$10,000
2. Clerk - \$10,000

The council shall provide, by resolution, for a surety bond for any other officer or employee that the Council deems necessary or, except for the Mayor, for a blanket bond. The City shall pay the premium on all official bonds.

SECTION 9. Bonds filed. All bonds, when duly executed, shall be filed with the Mayor, except that the Mayor's bond shall be filed with the Clerk.

SECTION 10. Oaths. The oath of officers shall be required and administered for all elected and appointed individuals as required by law prior to taking office.
(Code of Iowa, Sec. 63.1)

SECTION 11. Open meetings. All meetings of the Council, any board, commission, or any multi-member body formally and directly created by any of the foregoing bodies shall be held in open session unless closed sessions are expressly permitted by law. Notice of any such meeting shall be provided pursuant to law.
(Code of Iowa, Sec. 21.3 & 21.4)

SECTION 12. Conflict of interest. A City officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the City, unless expressly permitted by law. A contract entered into in violation of this section is void. The provisions of this section do not apply to:
(Code of Iowa, Sec. 362.5)

1. Compensation of officers. The payment of lawful compensation of a City officer or employee holding more than one City office or position, the holding of which is not incompatible with another public office or is not prohibited by law.
(Code of Iowa, Sec. 362.5[1])

2. Investment of funds. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.
(Code of Iowa, Sec. 362.5[2])

3. City Treasurer. An employee of a bank or trust company who serves as Treasurer of the City.
(Code of Iowa, Sec. 362.5[3])

4. Stock Interests. Contracts in which a City officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in subsection eight (8) of this section, or both, if the contract is for professional services not customarily awarded by competitive bid, if the remuneration of employment will not be directly affected as a result of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.
(Code of Iowa, Sec. 362.5)

5. Newspaper. The designation of an official newspaper.

6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time of the officer or employee was elected or appointed, but the contract may not be renewed.
(Code of Iowa, Sec. 362.5)

7. Volunteers. Contracts with volunteer fire fighters or civil defense volunteers.
(Code of Iowa, Sec. 362.5)

8. Corporations. A contract with a corporation in which a City officer or employee has an interest by reason of stockholdings when less than five (5) percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of such officer or employee.
(Code of Iowa, Sec. 362.5)

9. Contracts. Contracts made by the City upon competitive bid in writing, publicly invited and opened.
(Code of Iowa, Sec. 362.5)

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed cumulative total purchase price of fifteen hundred dollars (\$1,500) in a fiscal year.
(Code of Iowa, Sec. 362.5)

SECTION 13. Terms of appointed officers. The terms of all appointed officers that are not otherwise fixed by law or ordinance shall be two (2) years, such terms expiring at the time of the organizational meeting of the Council in January following the regular municipal election and the appointment of a successor.
(Code of Iowa, Sec. 372.13[4])

SECTION 14. Resignations. An elected officer who wished to resign may do so by submitting a resignation in writing to the Clerk so that it shall be properly recorded and considered. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which the person was elected, if during that time the compensation of the office has been increased.
(Code of Iowa, Sec. 372.13[9])

SECTION 15. Removal of appointed officers. Except as otherwise provided by State or City law, all persons appointed to City office may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed in the office of the Clerk, and a copy shall be sent by certified mail to the person removed, who, upon request filed with the Clerk within thirty (30) days after the date of mailing the copy, shall be granted a public hearing before the Council on all issues connected with the removal. The hearing shall be held within thirty (30) days after the date the request is filed, unless the person removed re-quests a later date.
(Code of Iowa, Sec. 372.15)

SECTION 16. Vacancies. A vacancy in an elective City office during a term of office shall be filled, at the Council's option, by one of the two following procedures:

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

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

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

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

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

SECTION 17. Gifts. The following regulations shall apply to the reporting, soliciting, or acceptance of gifts by City officials or employees:

1. Reporting. Unless different rules relating to the reporting of gifts have been adopted by the Council, a City official or employee shall make public disclosure, in accordance with Chapter 68B of the Code of Iowa, by filing a report with the County Auditor setting out the nature, amount, date, and donor of any gift or gifts from any one donor made to the person or to the person's immediate family members which exceeds three dollars (\$3) in cumulative value in any one calendar day. Donors shall also file comparable reports with respect to any gift or gifts made.

(Code of Iowa, Sec. 68B.11[4])

2. Gifts solicited or accepted. A City official or employee or a member of that person's immediate family shall not, directly or indirectly, solicit, accept, or receive from any one donor in any one calendar day a gift or series of gifts having a value of three dollars (\$3) or more.

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

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 9

POWERS AND DUTIES

SECTION 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 Council unless contrary to State law or City charter.

SECTION 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.

SECTION 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 thereof and obtaining a receipt from the clerk for the funds, or deposit the funds directly in the bank account and give the City clerk a duplicate receipted deposit slip together with his receipts indicating the sources of the funds.

SECTION 4. Transfer of records and property to successor. Each officer shall transfer to his successor in office all books, papers, records, documents, and property, together with an invoice of the same, in his custody and appertaining to his office.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 10

MAYOR

SECTION 1. Term of Mayor. The Mayor is elected for a term of two (2) years.

SECTION 2. 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 department. He 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.

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

3. The Mayor may sign, veto, or take no action on an ordinance, amendment, or resolution passed by the Council. If the Mayor vetoes a measure, the Mayor must explain the reason for such veto to the Council. The Council may pass a measure over the Mayor's veto by a two-thirds majority of the Council members.

4. The Mayor shall make appropriate provisions that duties of any absentee officer be carried on during his absence.

5. The Mayor shall represent the City in all negotiations properly entered into in accordance with law or ordinance. He shall not represent the City where this duty is specifically delegated to another officer by law or ordinance.

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

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

8. 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 council action.

9. 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 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 his duties. In the

exercise of the duties of his office the Mayor Pro Tempore shall not have power to employ or discharge from employment officers or employees that the Mayor has the power to appoint, employ, or discharge. The Mayor Pro Tempore shall have the right to vote as a member of the Council.

10. The Mayor shall, upon order of the City Council, secure for the City such specialized and professional service not already available to the City. In executing the order of the City Council, the Mayor shall conduct himself in accordance with the City ordinance and the laws of the State of Iowa.

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

12. Upon authorization of the Council, the Mayor shall revoke permits or licenses granted by the 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.

13. 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 appointed law enforcement agency.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 11

MAYOR PRO TEM

SECTION 1. Vice President of Council. The Mayor Pro Tem shall be Vice President of Council.

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

SECTION 2. Powers and duties. Except for the limitations otherwise provided herein, the Mayor Pro Tem shall perform the duties of the Mayor in cases of absence or inability of the Mayor to perform such duties. In the exercise of the duties of the office, the Mayor Pro Tem shall not have power to employ, or discharge from employment, officers or employees that the Mayor has the power to appoint, employ or discharge without the approval of the Council.

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

SECTION 3. Voting rights. The Mayor Pro Tem shall have the right to vote as a member of the Council.

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

SECTION 4. Compensation. If the Mayor Pro Tem performs the duties of the Mayor during the Mayor's absence or disability for a continuous period of fifteen (15) days or more, the Mayor Pro Tem may be paid for that period such compensation as determined by the Council, based upon the Mayor Pro Tem's performance of the Mayor's duties and upon the compensation of the Mayor.

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

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 12

CITY CLERK

SECTION 1. Appointment of City Clerk. The Clerk is appointed by a majority vote of the City Council.

SECTION 2. Powers and duties of the Clerk. The duties of the clerk shall be as follows:

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

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

3. The Clerk shall cause to be published all ordinances and amendments enacted by the City. The Clerk shall authenticate all such measures except motions with his signature, certifying the time and place of publication when required.

4. The Clerk shall maintain copies of all effective city ordinances and codes for public use.

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

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.

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.

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

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

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

13. 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.

14. 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.

15. The Clerk shall furnish upon request to any municipal officer a copy of any record, paper or public document under his control when it may be necessary to such officer in the discharge of his duty. The Clerk shall furnish a copy to any citizen when requested upon payment of the fee set by the 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.

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

17. The Clerk shall issue all licenses and permits approved by the Council, and keep a record of licenses and permits issued which shall show date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.

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

19. The Clerk shall compile and 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.

20. The Clerk shall draw all warrants for the City upon the vote of the Council.

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

22. The Clerk shall keep an accurate record of all money or securities received by him on behalf of the municipality and specify date, from whom, and for what purpose received.

23. 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.

24. The Clerk shall keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.

25. The Clerk shall keep a separate account of all money received by him from special assessments.

26. 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.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 13

COUNCIL

SECTION 1. Number and term of Council. The Council consists of five (5) Council members elected at large for overlapping terms of four (4) years.

(Code of Iowa, Sec. 372.4 & 376.2)

SECTION 2. Powers and duties. The powers and duties of the Council shall include, but are not limited to the following:

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

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

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

(Code of Iowa Sec. 372.13[7])

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

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

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

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

5. Contracts. The Council shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the City unless either made by ordinance or resolution adopted by the Council, or reduced to writing and approved by the Council, or expressly authorized by ordinance or resolution adopted by the Council.

(Code of Iowa, Sec. 364.2[1] & 384.95 through 384.102)

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

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

7. Records. The Council shall maintain records of its proceedings.

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

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

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

SECTION 3. Exercise of power. The Council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance in the following manner:

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

1. Approved action by Council. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of the 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 Council members. Each Council member's vote on an ordinance, amendment or resolution must be recorded.

(Code of Iowa, Sec. 380.4)

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

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

3. Measures become effective. Measures passed by the 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 Council re-passes the measure after the Mayor's veto, a resolution become effective immediately upon re-passage, 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[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])

SECTION 4. Meetings. Meetings of the Council shall be as follows:

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

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

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

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

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

4. Rules of procedure. The Council shall determine the rules of its own proceedings by resolution and the Clerk shall keep such rules on file for public inspection.

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

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

6. Notice of meetings. The Council shall give reasonable notice of the time, date, and place of each meeting, and its tentative agenda.

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

8. Minutes. Minutes shall be kept of all meetings showing the date, time, and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and the vote of each member present shall be made public.

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

10. Cameras and recorders. The public may use cameras or recording devices at any open session.

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

SECTION 5. Appointments. The Council shall appoint the following officials and prescribe their powers, duties, compensation, and terms of office:

- | | |
|---------------------------------|---|
| 1. City Clerk | 8. Zoning Board of Adjustment |
| 2. City Attorney | 9. Chairman of Planning & Zoning Commission |
| 3. City Administrator | 10. Street Superintendent |
| 4. Waste Water Superintendent | 11. Sidewalk Superintendent |
| 5. Park and Recreation Board | 12. Weed Control Superintendent |
| 6. Water Superintendent | 13. Animal Control Superintendent |
| 7. Planning & Zoning Commission | |

SECTION 6. Compensation. The salary of each Council member shall be Ten Dollars (\$10) for each meeting of the Council attended.

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

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 14

SALARIES OF MUNICIPAL OFFICERS

SECTION 1. Councilmen. The salary of each councilman shall be \$10 for each meeting of the Council.

SECTION 2. Mayor. The Mayor shall receive an annual salary of \$1,800 to be paid in equal monthly installments.

SECTION 3. Clerk/Treasurer. The Clerk/Treasurer shall receive an annual salary as set by the City Council by resolution.

SECTION 4. Other officers. The compensation of all other officers and employees shall be set by resolution of council or as set by contract.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 15

PARK AND RECREATION BOARD

SECTION 1. Purpose. The purpose of this chapter is to establish an administrative agency for the operation of, and planning for, recreation and parks for the City.

SECTION 2. Park and Recreation Board created. A park and Recreation Board is hereby created to advise the Council on the needed facilities to provide open space such as parks, playgrounds, and community facilities for other forms of recreation. It shall also plan and oversee City programs, and encourage other programs, for the leisure time of the City's residents of all ages.

SECTION 3. Board organization. The Board shall consist of five (5) members, all citizens of the City, appointed by the Council for overlapping three (3) year terms. Members shall serve without compensation, but may receive their approved actual expenses. Vacancies shall be filled in the same manner as original appointments. The Board shall select its own Chairperson, Vice Chairperson, and Secretary. The first Board shall have varying lengths of terms as set by the Council. At their first meeting of the year, the Board shall set the time, date, and place of their meetings.

SECTION 4. Specific powers and duties. The Park and Recreation Board shall have the following powers and duties:

1. Planning. The Board shall be responsible for recommending and preparing plans for the development, maintenance, and use of facilities, programs, and land. The Board shall prepare and revise at least once every ten (10) years the plans for the development and continuation of the system of City parks and other recreational facilities, hereafter known as the "park system."

2. Rules and Regulations. The Board shall have the power to make rules and regulations for the use of parks or other recreational facilities, for the conduct of recreational programs, and such rules shall be either posted on the facilities or otherwise published in such a manner as to provide adequate notice by the using public.

3. Fees and Charges. Whenever and only so long as there are no revenue bonds or pledge orders outstanding which are payable therefrom, the Board shall have the power and authority to establish fees, rates, and charges for the use of the City parks or other recreational facility, subject, however, to the authority of the Council to adjust said rates and charges.

4. Lease Authority. The Board shall have the authority, subject to the City Council, to lease, under reasonable rules and requirements, a particular park or portion thereof when the lease is consistent with stated City policy as follows:

A. For a period not in excess of ten (10) days to charitable or fraternal and patriotic organizations to conduct celebrations, anniversaries and entertainments.

B. For a period as the Board deems proper for the purpose of permitting the playing of amateur or professional baseball or other athletic games.

5. Contract. The Board shall recommend to the City Council contracts with public or private entities for service relative to recreational programs and activities. Such contracts shall be evidenced by a written contract approved by the City Attorney as to form.

6. Budget. The Board shall prepare and recommend a budget annually to the City Council which will show all receipts and proposed expenditures for the continuation of the goals as set out herein.

7. Review Expenditures and Operations. The City Council shall approve the expenditures of all funds. The Board shall oversee the park system and determine what needs to be done to properly care for and maintain the park system assets, and carry out programs. Also they shall make suggestions to the Council for acquisitions of new assets, implement, or expand programs, or cessation of existing programs.

8. Reports. The Board shall prepare reports of each meeting and file said reports with the City Clerk. The Board shall prepare an annual report of activities, plans, and developments for the City Council.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 16

PARK REGULATIONS

SECTION 1. Rules and regulations. The Park and Recreation Board shall have the power to make rules and regulations for the use of the park or other recreational facilities or for the conduct of recreation programs, subject to the approval of the rules by the Council. Such rules shall be either posted on the facility or otherwise publicized in a manner to provide adequate notice to the using public.

SECTION 2. Damage property. It shall be unlawful for any person, other than authorized personnel, to cut, rake, damage, destroy, or interfere with any trees, shrubs, flowers, bushes, or other plantings or buildings, structures, or other facility in any public park or recreational facility.

SECTION 3. Use of vehicles. It shall be unlawful for any person to operate a motor vehicle as defined in the laws of the State in any public park or pleasure ground of the City, except upon the streets and parking lots therein which are specifically designated for motor vehicle travel.

SECTION 4. Weapons. Except for peace officers, while in the performance of their duty, and as otherwise specifically authorized by the Board, it is unlawful for any person to carry or have in possession or under control in any public park, pleasure ground, or recreational facility of the City any firearm of any kind whatsoever, BB gun, pellet gun, bow and arrow, sling shot, or any other device for shooting or throwing a projectile of any kind.

SECTION 5. Fires. No fires shall be built, except in a place provided therefor, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.

SECTION 6. Littering. No person shall place, deposit, or throw any waste, refuse, litter, or foreign substance in any area or receptacle except those provided for that purpose.

SECTION 7. Camping areas. No person shall camp in any portion of a park except in portions prescribed or designated by the Board.

SECTION 8. Penalties. Violation of a Board rule which has been approved by the Council and adopted by ordinance may be cause for denial of use of a facility or participation in a program, but such denial which extends more than one day may be appealed to the Board or to the Council for a hearing. The violation may be prosecuted as a municipal infraction under Chapter 5 of the Code.

TITLE I - POLICY AND ADMINISTRATION

CHAPTER 17

URBAN REVITALIZATION PLAN

SECTION 1. Purpose. Purpose of this plan, once enacted, is to establish an Urban Revitalization Area, pursuant to Chapter 404 of the Iowa State Code. It has been determined that the area contains a substantial number of deteriorated or deteriorating structures, incompatible land use relationships, deterioration of site and other improvements, and a combination of these and other factors, substantially impairs or arrests the sound growth of the City, constitutes an economic and social liability, and is a menace to the public health, safety, or welfare in its present condition and use. The area, therefore, qualifies for designation as a revitalization area.

SECTION 2. Legal Description. See attached map and legal description.

SECTION 3. Property values and owners. A copy of property values and owners may be obtained at City Hall.

SECTION 4. Land uses. The existing land uses include residential and commercial. Presently there are mixed and incompatible uses. The incompatible uses are primarily the results of grandfathered conditions at the time the zoning ordinance was approved. It is anticipated this legislation will encourage the removal of incompatible uses and the construction of suitable structures. In the commercial area it is planned two or three residential structures will be removed and commercial/residential developments are proposed. The structures to be removed are dilapidated and pose a fire and health hazard to the community.

SECTION 5. Use of existing services. The plan, as proposed, will have only minor effects on city services. The City has, over a number of years, made improvements in the area in anticipation of property improvements. It is anticipated the plan will result in a more effective use of existing services.

1. Transportation: The plan will encourage greater use of downtown parking. No modification to existing public transportation.

2. Sewage: No modification is anticipated.

3. Garbage collection: The Plan will not affect current collection patterns.

4. Police protection: The removal of certain structures will assist the Police by removing several sites of vandalism.

5. Fire protection: The removal of structures which pose fire hazards will assist the fire protection of the commercial area.

6. Water: A new water tower, built by the City, will result in available capacity.

SECTION 6. Established criteria. The revitalization area includes Residential and Commercial property located within the Residential and Commercial zoning districts. The purpose of the plan is to encourage rehabilitation of existing structures where appropriate, and new construction in open areas. Established criteria will be utilized to evaluate qualification of each project.

1. New construction: It is anticipated new construction will occur within the planned area. Tax credits and industrial revenue bonds will be available to residential and commercial properties.

2. Rehabilitation: Rehabilitation of a property in which the improvements amount to ten (10) percent or more of the taxable valuation of the structure or property, may result in its qualification for use of tax credits and/or industrial revenue bonds.

3. Other assistance: At present, there are no grant or loan programs anticipated for use in the area.

4. Relocation: No relocation of families or businesses are anticipated.

5. Duration: The plan should become effective from and after the final approval of applications following public hearings as provided by Section 2, Paragraphs 4 and 6 of Chapter 84, 68th General Assembly and shall be in effect for the next five (5) full calendar years from the date of this Ordinance passage which is December 2005.

6. Tax abatement schedule: The following schedules shall apply to properties within the Residential and Commercial zoning classifications:

- Year 1 - 80
- Year 2 - 70
- Year 3 - 60
- Year 4 - 50
- Year 5 - 40

REVITALIZATION

1. Industrial - utilize Ch 427 B, Code of Iowa.

2. Commercial

A. Establish review committee within the City Council to review projects and recommend to City Council.

B. Committee make-up - 3 Council Members.

C. Criteria

a. Projects should enhance and or expand available retail space within the bounds of current Commercial districts.

(1). Use of empty lots removal re renovation of dilapidated structures, removal, or change in non- conforming structures.

b. Projects should architecturally blend with surrounding structures. Building sizes, frontages, and styles should blend and compliment one another.

c. Projects should include landscaping and amenities which emphasize pedestrian rather than vehicular usage.

d. Projects should improve or at least not negatively affect parking availability.

e. Projects shall be evaluated for employment opportunities.

(1). Jobs generated during construction.

(2). Jobs generated by the improvements i.e. jobs created by expansion or renovation.

f. Projects should make necessary sidewalk repairs at time of the project.

g. Signage will meet all City standards and will blend and complement area signage.

h. Space for commercial activity on first floor. Additional floors may be used for residential purposes.

D. Variances

a. The City Council should have the right to grant variances.

E. Changes

a. May give the Committee power to draft changes to criteria subject to Council approval.

F. Procedure

a. Owner would submit plans with frontage design, landscaping, parking, designation of usage, and signage.

b. Owner would submit application which addresses employment, parking considerations.

c. Material would be reviewed by Committee which would provide comments to fit to each criteria. The Committee would then formulate a recommendation to the City Council based upon the fit of the overall project to the criteria.

d. The City Council would then review the project with comments and either accept or reject Committee recommendation. The Council could also support changes and refer back to the Committee. Appeals would go directly to the Council for final determination.

TITLE II - COMMUNITY PROTECTION

CHAPTER 20

POLICE/SHERIFF'S PROTECTION

SECTION 1. The City Council of McCallsburg, Iowa, under the authority of the State of Iowa may contract for police or partial protection by contract with another law enforcement agency.

SECTION 2. The City Council shall annually review and enter into such public safety law enforcement protection contracts as the Council deems appropriate for the welfare of the citizens.

TITLE II - COMMUNITY PROTECTION

CHAPTER 21

FIRE DEPARTMENT

SECTION 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)

SECTION 2. Organization. The department shall consist of the Fire Chief and such other officers and personnel as may be authorized by the Council.

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

SECTION 3. Qualifications. In no case shall any person be recruited, selected, or appointed as a member of the department unless such person:

1. Resident Citizen. Is a citizen of the United States and a resident of the City or of Warren Township or intends to become a resident upon acceptance as a member of the department.

2. Age. Is at least 18 years of age, but not more than 59 years of age at the time of appointment.

3. Driver's license. Has a current active Iowa driver's license.

4. Language. Is able to read and write the English language.

5. Alcohol and drugs. Is not addicted to drugs or alcohol.

6. Character. Is of good moral character as determined by a thorough investigation and has not been convicted of a felony or a crime involving moral turpitude.

9. Vision. Has an uncorrected vision of not less than 20/100 in either eye; correctable to 20/20 and normal color vision.

10. Hearing. Has normal hearing in each ear.

SECTION 4. Approved by fire fighters No person having otherwise qualified shall be appointed to the department until such appointment is submitted to and approved by a majority of the volunteer fire fighters.

SECTION 5. Training. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the Chief.

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

SECTION 6. Compensation. Members of the department shall receive no compensation other than that approved by the Council.

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

SECTION 7. Election of officers. The fire volunteers shall elect a Chief and such other officers as their constitution and by-laws may provide, but the election of the Chief shall be subject to the approval of the Council. In case of absence of the Chief the officer next in rank shall be in charge and have and exercise all the powers of Chief.

SECTION 8. Fire chief duties. The Fire Chief shall have the following powers and duties:

1. General. Perform all duties required of the Fire Chief by law or ordinance.
2. Enforce laws. 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 exit 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.
3. Command. Be charged with the duty of maintaining the efficiency, discipline, and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the Fire Chief.
4. Property. Exercise and have full control over the disposition of all fire apparatus, tools, equipment, and other property used by or belonging to the fire department.
5. Notification. Whenever death, serious bodily injury, or property damage in excess of Two Hundred Thousand Dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all fires causing an estimated damage of Fifty Dollars (\$50) or more or emergency responses by the fire department, file a report

with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

9. Records. Cause to be kept records of the fire department personnel, 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.

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

SECTION 9. Departmental rules. The Fire Chief shall establish such rules, not in conflict with this Code of Ordinances and subject to the approval of the Council, as may be necessary for the operation of the department including rules governing the following

1. Rules of Conduct. The conduct and activity of members of the department during duty hours.

2. Communication. The procedures, use and care of the radio and other communication systems.

3. Training. The nature, time, and attendance requirements for in-service training of members of the department.

4. Emergencies. Temporary rules for the protection and functioning of the department as may be necessary in the event of an emergency until such rules may be considered by the Council.

5. Other. Such other rules as may be deemed necessary and advisable in assuring efficient and proper performance of the duties of the department.

6. Penalties. The penalties which may be imposed for violation of established departmental rules by members.

7. Notice. The Fire Chief shall give written notice to any member charged with a violation of departmental rules specifying the rule violated, the nature of the violation and the penalty to be imposed.

8. Appeal. A member of the department charged with a violation of rules may request a hearing before the Council by filing a notice of appeal with the Clerk within 10 days of receipt of notice of violation. The Council, at its next meeting, shall review the facts and affirm, modify, or revoke the action of the Fire Chief.

SECTION 10. Accidental injury insurance. The Council shall contract to insure the City against liability for workers' compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters injured in the performance of their duties as fire fighters whether within or outside the corporate limits of the City. All volunteer fire fighters shall be covered by the contract.

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

SECTION 11. Liability insurance. The Council shall contract to insure against liability of the City or members of the department for injuries, death, or property damage arising out of and resulting from the performance of departmental duties within or outside the corporate limits of the City.

(Code of Iowa, Sec. 613A.2 & 517A.1)

SECTION 12. Calls outside the city. 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.

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

SECTION 13. Mutual aid. Subject to approval by resolution of the Council, the department may enter into mutual aid agreements with other legally constituted fire departments. Copies of any such agreements shall be filed with the Clerk.

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

SECTION 14. Authority to cite violations. Fire officials acting under the authority of Chapter 100 of the Iowa Code may issue citations in accordance to Chapter 805 of the Iowa Code, for violations of state and/or local fire safety regulations.

SECTION 15. Fire hydrant access. All fire hydrants shall be located so that they are accessible for use by the fire department. No one shall cover, hide, disguise, or place any obstruction to cause the fire hydrant not be easily accessible or hide the fire hydrant from view from the street. The City or fire department may remove any and all obstructions without liability for such removal.

TITLE II - COMMUNITY PROTECTION

CHAPTER 22

TRAFFIC REGULATIONS

SECTION 1. Purpose. The purpose of this article is to regulate traffic upon and use of the streets of McCallsburg, Iowa, and to provide for the enforcement of these regulations.

SECTION 2. Short title. This ordinance may be known and cited as the "Traffic Code."

SECTION 3. Definitions. Where words and phrases used in this ordinance are defined by the laws of Iowa, such definitions shall apply to this ordinance.

1. The term "park or parking" shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

2. The term "stand or standing" shall mean the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

3. The term "stop" shall mean complete cessation of movement.

4. The term "stop or stopping" shall mean 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. The term "business districts" shall mean the area on Main Street between 3rd Street and 6th Street.

6. The term "residential districts" shall mean all areas of the City not included in business districts.

7. The term "Peace Officer" shall mean every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

(Code of Iowa, Sec. 321.1 [45])

8. The term "traffic control device" shall mean all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

(Code of Iowa, Sec. 321.1 [62])

9. The term "vehicle" shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

10. "Golf cart" means a three or four wheeled recreational vehicle generally used for transportation of person(s) in the sport of golf, that is limited in engine displacement of less than 800 cubic centimeters and total dry weight of less than 800 pounds.

11. "Operate" means to ride in or on, other than as a passenger, use, or control the operation of a golf cart in any manner, whether or not the golf cart is moving.

12. "Operator" means a person, who operates or is in actual physical control of a golf cart.

13. "Roadway" means that portion of a highway improved, designated, or ordinarily used for vehicular travel.

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

Enforcement and Obedience to Traffic Regulations

SECTION 4. Authority of law enforcement and fire department officials. Provisions of this ordinance and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the law enforcement agency.

The officers of the law enforcement agency 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 law enforcement agency may direct traffic as conditions require notwithstanding the provisions of the traffic laws.

Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic there at or in the immediate vicinity.

SECTION 5. Required obedience to provisions of this ordinance and State law. Any person who shall willfully fail or refuse to comply with any lawful order of the law enforcement officer, or direction of a fire department officer during a fire, or who shall fail to abide by the provisions of the Iowa statutory laws relating to motor vehicles and the statutory law of the road is in violation of this ordinance.

SECTION 6. City Mayor to designate crosswalks and establish and mark traffic lanes. The City Mayor (as head of the traffic division), is 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 ordinances of this City. Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

SECTION 7. Speed restrictions for the City of McCallsburg.

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

2. BUSINESS DISTRICT. A speed in excess of twenty (20) miles per hour in the business district unless specifically designated otherwise in this chapter, is unlawful.

3. RESIDENCE OR SCHOOL DISTRICT. A speed in excess of twenty-five (25) miles per hour in any school or residence district, unless specifically designated otherwise in this chapter, is unlawful.

4. SUBURBAN DISTRICT. A speed in excess of forty-five miles per hour in a suburban district, unless specifically designated otherwise in this chapter, is unlawful.

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

6. MINIMUM SPEED. No person shall drive a motor vehicle at such a low speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

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

8. SPECIAL SPEED RESTRICTIONS. In accordance with requirements of the Iowa State Department of Transportation, or whenever the Council shall determine upon the basis of an engineering and traffic investigation that any speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the City street system, the Council shall determine and adopt by ordinance such higher or lower speed limit as it deems reasonable and safe at such location.

9. SPECIAL 35 MPH SPEED ZONES. A speed in excess of thirty-five (35) miles per hour shall be unlawful on any of the following designated streets or parts thereof.

A. Dubois Avenue from the west corporate line to the west line of the railroad right-of-way.

B. Eighth Street from the south corporate line to the south line of the Fincham Addition.

10. SPECIAL 45 MPH SPEED ZONES. A speed in excess of forty-five (45) miles per hour shall be unlawful on any of the following designated streets or parts thereof.

A. Dubois Avenue from 150 feet east of the east street line of Eighth Street to the east corporate line.

SECTION 8. Parade regulations. No person shall conduct or cause any parade on any street except as provided herein:

1. The term "parade" shall mean any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Mayor and approval of the City Council. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all participants therein to parade when such participants have been invited by the permittee to participate therein. No fee shall be required for such permit.

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

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

SECTION 9. Stops required. Every driver of a vehicle shall stop at the following intersections at the stop sign posted as required by law as follows:

1. First Street. Vehicles traveling on First Street shall stop at DuBois Avenue.

2. Third Street. Vehicles traveling on Third Street shall stop at DuBois Avenue.

3. Fourth Street and Dubois Streets. Vehicles traveling on Fourth Street shall stop at DuBois Avenue and vehicles traveling on DuBois Street shall stop at Fourth Street.
4. Fifth Street. Vehicles traveling on Fifth Street shall stop at DuBois Avenue.
5. Sixth Street. Vehicles traveling on Sixth Street shall stop at DuBois Avenue.
6. Seventh Street, Vehicles traveling south on Seventh Street shall stop at DuBois Avenue.
7. Eighth Street. Vehicles traveling on Eighth Street shall stop at DuBois Avenue.
8. Latrobe Avenue. Vehicles traveling on Latrobe Avenue shall stop at 8th Street.
9. Main Street. Vehicles traveling on Main Street shall stop at 8th Street.
10. Fruitt Avenue. Vehicles traveling east on Fruitt Avenue shall stop at 8th Street.
11. Fourth Street. Vehicles traveling south on Fourth Street shall stop at Latrobe Avenue.
12. Latrobe Avenue. Vehicles traveling from either direction shall stop at the railroad crossing.
13. Fourth Street. Vehicles traveling on Fourth Street shall stop at Main Street.
14. Fifth Street. Vehicles traveling on Fifth Street shall stop at Main Street.
15. Sixth Street. Vehicles traveling on Sixth Street shall stop at Main Street.
16. First Street. Vehicles traveling south or north on First Street shall stop at Latrobe Ave.
17. Second Street. Vehicles traveling south or north on Second Street shall stop at Latrobe Avenue.
18. Third Street. Vehicles traveling south or north on third Street shall stop at Latrobe Avenue.
19. Fifth Street. Vehicles traveling south on Fifth Street shall stop at Latrobe Avenue.
20. Third Street. Vehicles traveling on Third Street shall stop at Main Street.
21. Second Street. Vehicles traveling south on Second Street shall stop at Main Street.

SECTION 10. Yield required. Every driver of a vehicle shall yield in accordance with the following:

1. First Street. Vehicles traveling on First Street shall yield to traffic on Latrobe Avenue.
2. Second Street. Vehicles traveling South on Second Street shall yield to traffic on Latrobe Avenue.
3. Third Street. Vehicles traveling South on Third Street shall yield to traffic on Latrobe Avenue.
4. Fifth Street. Vehicles traveling South on Fifth Street shall yield to traffic on Latrobe Avenue.
5. Sixth Street. Vehicles traveling South on Sixth Street shall yield to traffic on Latrobe Avenue.
6. Fruitt Street. Vehicles traveling on Fruitt Street shall yield to traffic on Third Street.

SECTION 11. 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 he is operating.

SECTION 12. School stops. When a driver of a vehicle approaches an authorized school stop he shall bring such vehicle to a full stop at a point of ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign, and thereafter proceed in a careful and prudent manner until he shall have passed such school site.

Method of Parking

SECTION 13. 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 (18) inches of the curb or edge of the roadway except as hereinafter provided in the case of angle parking.

SECTION 14. Signs or markings indicating angle parking. The City Mayor, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign such streets or portions thereof indicating the method of angle parking. Such determination shall be subject to approval by council resolution.

SECTION 15. Obedience to angle parking signs or markings. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or

stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings.

SECTION 16. 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 Mayor 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.

SECTION 17. Authority to impound vehicles. Law enforcement officers are hereby 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 City under the circumstances hereinafter enumerated:

1. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or person 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 is so illegally parked as to constitute 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 (48) hours or more. A diligent effort shall first be made to locate the owner. If the owner is found he shall be given an opportunity to remove the vehicle.

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

Miscellaneous Driving Rules

SECTION 18. Vehicles not to be driven on sidewalks. The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.

SECTION 19. Clinging to vehicles. No person shall drive a motor vehicle on the streets of this city unless all passengers of said vehicle are inside said vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or on 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 to any vehicle upon a roadway.

SECTION 20. Continuous running vehicles. No unattended vehicles or trailer refrigeration units shall be left standing on the streets or on any property within the corporate limits of the City between the hours of 6:00 P.M. and 6:00 A.M., and be allowed to run or have its engine in

operation for a period of more than 15 minutes when the vehicle is left unattended by not having an operator behind the steering wheel of the motor vehicle.

SECTION 21. Truck routes.

1. Every motor vehicle weighing five (5) tons or more, when loaded or empty 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: Fifth Street between Latrobe Avenue and DuBois Street; Fourth Street between Latrobe Avenue and DuBois Street; Eighth Street and DuBois Street; First Street between Latrobe Avenue and DuBois Street; Latrobe Avenue between Fifth and First Streets; Main Street between Second Street to the east end of Main Street and Sixth Street between Main and DuBois Streets.

2. Any motor vehicle weighing five (5) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes 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 said 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.

SECTION 22. Summons placed on illegally parked vehicles. 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 the officer or other authorized person finding such vehicle shall attach a written summons as hereinbefore provided to such vehicle in a conspicuous place and the driver of such vehicle shall be held to appear at the time and place designated in the summons.

SECTION 23. Presumption in reference to illegal parking. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that:

1. The particular vehicle described in the information was parked in violation of this ordinance.

2. The defendant named in the information was the registered owner at the time of question.

SECTION 24. Penalty. Anyone violating any of the provisions of this chapter shall, upon conviction, be subject to penalties as provided in Municipal Infractions, Chapter 5 of this Code.

Stopping, Standing, or Parking

SECTION 25. Truck parking limited. No person shall park any motor truck, truck tractor, semi-trailer, or other motor vehicle with trailer attached in violation of the following provisions. The provisions of this section shall not apply to pick-up, light delivery or panel delivery trucks.

(Code of Iowa, Sec. 321.136 (1))

1. Extended Parking. No such vehicle shall be left unattended or parked upon any street, alley, public or private property in any residential or commercial zone.

2. Business District. Excepting only when such vehicles are actually engaged in the delivery or receiving of merchandise or cargo within the prohibited area, no person shall park or leave unattended such vehicle, on any of the following designated streets. 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. This section will not apply to vehicles left at a commercial repair shop for repairs.

A. Main Street from Second Street to Ninth Street.

B. Fourth Street from Latrobe Avenue to Dubois Avenue.

C. Fifth Street from Latrobe Avenue to the alley north of Main,

SECTION 26. Parking signs required. Whenever by this or any other ordinance of this City 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 Mayor to erect appropriate signs giving notice thereof and no such regulations shall be effective unless signs are erected and in place at the time of any alleged offense. When signs are so erected giving notice thereof, no person shall disobey the restrictions stated on such signs. No parking shall be enforced in front of the fire station, in the drive and street.

SECTION 27. Parking for certain purposes illegal. No person shall park a vehicle upon the roadway for any of the following principal purposes:

1. Sale. Displaying such vehicle for sale.

2. Repairing. For commercial washing, greasing, or repairing such vehicle except such repairs as are necessitated by an emergency.

3. Advertising. Displaying advertising.

4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under the Code of Ordinances.

5. Storage. Storage or as junkage or dead storage for more than seventy-two (72) hours.

SECTION 28. Parking prohibited. No one shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control device, in any of the following places:

1. Crosswalk. On a crosswalk at an intersection.

(Code of Iowa, Sec. 321.236 [1] & 321.358 [5])

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

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

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

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

4. Sidewalks. On or across a sidewalk.

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

5. Driveway. In front of a public or private drive- way.

(Code of Iowa, Sec. 321.358 [2])

6. Intersection. Within, or within ten (10) feet of an intersection of any street or alley.

(Code of Iowa, Sec. 321.358 [3])

7. Fire Hydrant. Within five (5) feet of a fire hydrant.

(Code of Iowa, Sec. 321.358 [4])

8. Stop sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop, or yield sign, or traffic control signal located at the side of a roadway.

(Code of Iowa, Sec. 321.358 [6])

9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.

(Code of Iowa, Sec. 321.358 [8])

10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when proper sign is posted.

(Code of Iowa, Sec. 321.358 [9])

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.

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

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.

(Code of Iowa, Sec. 321.358 [11])

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

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

14. Theaters, Hotels, and Auditoriums. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theater, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospitals, nursing home, taxi-cab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked, or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose. Parking may be permitted in front of the theater between the hours of 8:00 A.M. to 5:00 P.M., Monday through Friday of each week unless the Police Chief finds it necessary to place in that area emergency NO PARKING SIGNS.

(Code of Iowa, Sec. 321.360)

15. Public Alleys. In any public alley.

(Code of Iowa Sec. 321.236 [1])

SECTION 29. Handicapped parking. The following regulations shall apply to the establishment and use of handicapped parking spaces:

1. Nonresidential Buildings and Facilities. All public and private buildings and facilities, temporary and permanent, used by the general public, which are not residences and which provide ten (10) or more parking spaces shall set aside handicapped parking spaces in accordance with the following:

(Code of Iowa, Sec. 104A.7)

A. Municipal off-street public parking facilities or any entity providing nonresidential parking in off-street public parking facilities shall provide not less than two percent (2%) of the total parking spaces in each parking facility as handicapped parking spaces, rounded to the nearest whole number of handicapped parking spaces. However, such parking facilities having ten (10) or more parking spaces shall set aside at least one handicapped parking space.

B. An entity providing off-street nonresidential public parking facilities shall review the utilization of existing handicapped parking spaces for a one-month period not less than once every twelve months. If upon review, the average occupancy rate for handicapped parking

spaces in a facility exceeds sixty percent (60%) during normal business hours, the entity shall provide additional handicapped parking spaces as needed.

C. An entity providing off-street nonresidential parking as a lessor shall provide a handicapped parking space to an individual requesting to lease a parking space, if that individual possesses a permanent handicapped identification device issued in accordance with Section 321L.2 of the Code of Iowa.

D. A new nonresidential facility in which construction has been completed on or after July 1, 1991, providing parking to the general public shall provide handicapped parking spaces as stipulated below:

REQUIRED MINIMUM NUMBER OF TOTAL PARKING SPACE IN LOT HANDICAPPED PARKING SPACES:

10 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	*
1001 and over	**

* TWO PERCENT (2%) OF TOTAL

** 20 SPACES PLUS 1 FOR EACH 100 OVER 1000

(Code of Iowa, Sec. 321L.5)

2. Residential Buildings and Facilities. All public and private buildings and facilities, temporary and permanent, which are residences, excluding condominiums as defined in Chapter 499B, Code of Iowa, and which provide ten (10) or more parking spaces, excluding extended health care facilities, shall set aside at least one handicapped parking space for each individual dwelling unit in which a handicapped person resides.

(Code of Iowa, Sec. 104A.7)

3. Business District. With respect to any on-street parking areas provided by the City within the business district, not less than two percent (2%) of the total parking spaces within each business district shall be designated as handicapped parking spaces.

(Code of Iowa Sec. 321L.5 [4])

4. Other Spaces. Any other person may set aside handicapped

parking spaces on their person's property provided each parking space is clearly and prominently designated as a handicapped parking space.

(Code of Iowa, Sec. 321L.5 [3e])

5. Prohibited Parking, No person shall park a motor vehicle not displaying a handicapped identification device, displaying such a device but not being used by a handicapped person, or in violation of the rules adopted under Section 321L.8 of the Code of Iowa in any handicapped parking space located on either public or private property.

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

SECTION 30. Golf Car Operation on Roadways, Streets, or Highways.

1. Golf carts shall not be operated on Dubois Avenue or Eighth Street other than to make a direct crossing. Provisions for permit holders that have driveways on Dubois or Eighth may drive to the nearest side street and make a direct crossing.

2. The operation of the golf carts, on City streets, is to be only by persons possession a valid driver's license or by special permit for disabilities and 16 years of age of older. (*Code of Iowa, Sec. 321.247*)

3. It is unlawful for any parent, guardian, or other person having the care, custody, and control of a minor under the age of sixteen (16) years to knowingly or negligently permit or allow such a minor to violate the provisions of this chapter. (*Code of Iowa, Sec. 321.219*)

4. The operation of golf carts on City streets is to be only from sunrise to sunset. They shall not be operated when visibility is such that there is insufficient light to clearly see person and vehicles at a distance of 500 feet. (*Code of Iowa, Sec. 321.247*)

5. The number of occupants in the motorized golf cart may not exceed the design occupant load.

SECTION 31. Equipment Required.

1. Golf carts shall be equipped with slow moving vehicle sign and a bicycle safety flag for operation on City streets.

2. Golf carts shall be equipped with adequate brakes to be operated on City streets. (*Code of Iowa, Sec. 321.247*)

3. Golf carts shall be in good mechanical condition and thoroughly safe for transportation of passengers.

4. Motorized golf cars shall be equipped with a rearview mirror to provide the driver with adequate vision from behind.

SECTION 32. Unlawful Operation.

1. A person shall not drive or operate a golf cart:

A. In a careless, reckless, or negligent manner as to endanger the person or property of another or cause injury or damage thereto.
(12/10)

B. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.

C. In or on any park, playground, sidewalk, or upon any publicly owned property except with the permission of the governing body thereof.

SECTION 33. Penalty.

In addition to the suspension or revocation of the permit a person who violated this chapter is guilty of a simple misdemeanor punishable as a scheduled violation under Iowa Code. (*Code of Iowa, Sec. 321.247*)

TITLE II - COMMUNITY PROTECTION

CHAPTER 23

ENFORCEMENT PROCEDURES

SECTION 1. Arrest or citation. Whenever a Law enforcement officer has reasonable cause to believe that a person has violated any provision of the Traffic Code, such law enforcement officer may:

1. Immediate Arrest. Immediately arrest such person and take such person before a local magistrate, or

2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant, and retain the fifth copy for the records of the City.

(Code of Iowa, Sec. 805.6, 321.485)

SECTION 2. Parking violations: Alternate. Admitted violations of parking restrictions imposed by this Code of Ordinances may be charged and collected upon a simple notice of a fine payable at the office of the Clerk. The simple notice of a fine shall be in the amount of five dollars (\$5) for all violations except handicapped and snow route parking violations. If such fine is not paid within 30 days, it shall be increased to ten dollars (\$10). The simple notice of a fine for snow route parking violations shall be twenty-five dollars (\$25), and the simple notice of a fine for handicapped parking violations shall be fifty dollars (\$50). Failure to pay the simple notice of a fine shall be grounds for the filing of a complaint in district court.

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

SECTION 3. Parking violations: Vehicle unattended. When a vehicle is parked in violation of this chapter and the driver is not present, the notice of fine or citation as hereinbefore provided shall be attached to the vehicle in a conspicuous place.

SECTION 4. Presumption in reference to illegal parking. In any proceeding charging a standing or parking violation, a prima facie presumption that the registered owner was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred, shall be raised by proof that:

1. Described Vehicle. The particular vehicle described in the information was parked in violation of this chapter, and

2. Registered Owner. The defendant named in the information was the registered owner at the time in question.

SECTION 5. Impounding vehicles. A Law enforcement officer is hereby authorized to remove, or cause to be removed, a vehicle from a street, public alley, public parking lot or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the City, under the circumstances hereinafter enumerated:

1. Disabled Vehicle. When a vehicle is 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.

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

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

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

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

4. Parked Over Seventy-two Hour Period. When any vehicle is left parked upon a street for a continuous period of seventy-two (72) hours or more. A diligent effort shall first be made to locate the owner. If the owner is found the owner shall be given an opportunity to remove the vehicle.

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

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

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

SECTION 6. Violation of promise to appear. It is unlawful for any person to willfully violate a citation to appear in court given as provided in this chapter, regardless of the disposition of the charge upon which that person is cited.

(Code of Iowa, Sec. 321.487)

TITLE II - COMMUNITY PROTECTION

CHAPTER 24

REGULATION OF RAILROAD CROSSINGS

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

1. The term "railroad train" shall mean any steam, electric, or other motor driven engine and the cars, if any, coupled to the engine operated on rails, but does not include interurbans and street cars.

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

SECTION 2. 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, gate, or flagman is required by resolution of 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 convenience of the public that some mechanical sign, signal, device, or gate should be erected and maintained, or flagman stationed at any street or other public crossing, the Council, by resolution, shall order and direct the railroad company or companies concerned to erect and maintain such sign, signal, device, 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 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.

SECTION 3. Street crossing obstructions. Operators shall not obstruct with a railroad train or with standing railroad cars any street, alley, sidewalk, or similar public crossing for any period greater than five (5) minutes. This provision shall not apply to railroad trains stopped at stations to loan and unload passengers, or to trains constantly in motion. This requirement does apply to trains engaged in switching operations.

SECTION 4. Maintenance of crossings. Operators shall construct and maintain good, sufficient, and safe crossings over any street traversed by their rails.

SECTION 5. 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.

SECTION 6. Penalty. Anyone violating any of the provisions of this chapter shall, upon conviction, be punished under the Municipal Infractions provision of Chapter 5 of this Code.

TITLE II - COMMUNITY PROTECTION

CHAPTER 25

GENERAL PROVISIONS FOR ANIMAL PROTECTION AND CONTROL

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

1. The term "Animal Control Officer" shall mean the individual or individuals appointed by the City Officials to enforce this Ordinance.
2. The term "owner" shall mean any person having a right of property or custody of an animal or who keeps or harbors an animal or knowingly permits an animal to remain on or about any premises occupied by that person.
3. The term "animal" shall mean every wild, tame, or domestic member of the animal kingdom other than the genus and species Homo-sapiens.
4. The term "person" shall mean any individual, corporation, partnership, organization, or institution commonly recognized by law as a unit.
5. The term "stray" shall mean any animal unlawfully running at large, the ownership of which cannot with reasonable investigation be ascertained or any animal which has been abandoned by its owner.
6. The term "at large" shall mean any animal when off the property of the owner and not under the control of a responsible person.
7. The term "control" shall be established when an animal is secured by a leash or lead or confined in a fenced in area or vehicle.
8. The term "disturbance" shall mean the act of trespassing, chasing, maiming, or killing domestic livestock or fowl; damaging or destroying personal property, biting or attempting to bite a person.
9. The term "vicious animal" shall mean:
 1. A. Any animal whose behavior constitutes a physical threat of bodily harm to a person in a place where such person is conducting himself or herself peacefully and lawfully. For the purposes of this section, a person is peaceably and lawfully upon the private property of an owner or possessor of an animal when he or she is on such property in the performance of any duty imposed by the laws of the jurisdiction or when he or she is on such property upon invitation, express or implied.

B. Any animal involved in an attack which requires defensive action by any person to prevent bodily injury and/or property damage in a place where such person is conducting himself or herself peacefully and lawfully.

C. Any animal involved in an attack on another animal or livestock which occurs off the property of the owner of the attacking animal.

D. Any animal which, in a threatening or terrorizing manner, in an attitude of attack, approaches any person upon the streets, sidewalks or any public grounds.

E. Any animal with a known propensity, tendency or disposition to attack, to cause injury or to otherwise threaten the safety of human beings or domestic animals.

F. Any animal which has attacked a human being or a domestic animal on any occasion causing bodily injury or death.

G. Any animal owned or harbored primarily or in part for the purpose of fighting or any animal trained for fighting.

H. Any animal that has been trained, tormented, badgered, baited or used for the purpose of causing or encouraging the animal to attack humans or domestic animals.

2. An animal *shall not* be deemed vicious if it bites, attacks or menaces:

A. Anyone assaulting its owner;

B. A trespasser on the property of its owner;

C. A person who has tormented, teased, abused or assaulted it. If a minor was under the age of 7 at the time the dog injured such minor, it shall be rebuttably presumed that the minor was not committing a trespass or other tort such as teasing, tormenting or abusing the dog.

D. In the defense of any human being within the immediate vicinity who was being attacked or assaulted.

3. An animal *shall not* be deemed vicious if it is assisting a peace officer engaged in law enforcement duties.

10. The term "humane treatment" shall mean care of an animal to include but not be limited to adequate exercise; adequate confinement space, adequate chain or rope length; adequate heat, ventilation, shelter, or wholesome food, and water consistent with the recommended requirements and feeding habits of the animal's age, size species, and breed.

11. The term "nuisance" shall mean any dog or cat who damages, soils, defiles, or defecates on private property other than the owner's or public walks and recreation areas; causes unsanitary, dangerous, or offensive conditions; causes disturbance by excessive barking or other noisemaking; or molests, attacks, or interferes with persons in the public right-of-way; or chases vehicles.

12. The term "dangerous animal" shall mean:

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; or

B. Any animals declared to be dangerous by the Board of Health or the City Council or its designee; or

C. The following animals which shall be deemed to be dangerous animals per se:

- a. Wolves and coyotes;
- b. Badgers, wolverines, weasels, mink, and other Mustelids (except ferrets);
- c. Bears;
- d. All apes (including chimpanzees), baboons, and macaques;
- e. Monkeys, except the squirrel monkey;
- f. Elephants;
- g. Wild boar;
- h. Black widow spiders and scorpions;
- i. Snakes, which are naturally venomous or poisonous or constrictors;
- j. All cats, except domestic cats (Carnivora of the family Felidae including, but not limited to lions, cougars, tigers, jaguars, leopards, lynx, bobcats, etc.);
- k. Raccoons, opossums, and skunks;
- l. Alligators and crocodiles;

13. The term "dog" shall mean and include members of the canine species, male or female, whether neutered or not.

14. The term "meaning of certain words" shall mean words used in the singular include the plural, and the plural include the singular, the masculine gender includes the feminine gender and the feminine gender includes the masculine gender.

SECTION 2. Animal Regulation Required. All residents shall register all pets, including but not limited to dogs, cats, or any other animal or fowl. The registration shall include the resident's name, address, contact telephone number, and the animal's name, description, and picture. Failure to register an animal shall be unlawful.

SECTION 2A. Animal Identification Required. Regardless of age of the animal, the owners of all dogs shall obtain a durable identification tag for the animal setting forth the name, address and phone number of the owner of the animal, and said identification tag shall also be firmly attached to the collar of the animal. Failure to keep an identification tag as well as a license tag on the animal shall be unlawful.

SECTION 3. Fencing required. All animals and livestock specified in Section 2 shall be kept on property adequately and properly fenced and penned.

SECTION 4. Term of permit: Cancellation. Permits granted under this Ordinance shall expire one year from date of Council approval, and renewal shall require the same consents and vote of Council. A permit may be withdrawn upon order of the health authority for the City for violation of the requirements of Section 4 of this Ordinance.

SECTION 5. Sanitation required. The keeping of any cattle, horses, sheep, goats, or swine within the City, except in pens with dry floors or pens free from all filth and standing water, or the keeping of any of the aforesaid animals without shelter in inclement weather, without proper feeding or otherwise in a careless or cruel manner is unlawful, and any unsanitary condition maybe declared a nuisance and abated as provided by law or City Ordinance.

SECTION 5A. Disposal of Animal Waste. Any person having custody or control of any animal, including but not limited to cats, dogs, cattle, horses, swine, sheep, or fowl, shall have the responsibility for disposing of feces or manure of the animal in a sanitary manner. It shall be unlawful for any person having custody or control of any animal to place, deposit, discard, dispose, or leave feces or manure of the animal on public property or private property of another unless placed in approved garbage or refuse containers on public property or with the consent of the owner of the private property. The provisions of this section shall not apply to law enforcement officers while using dogs to perform law enforcement functions or rescue activity.

SECTION 6. Rabbits. It shall be unlawful to keep any rabbit hutch within fifty (50) feet of any dwelling, and such hutches shall be kept in a sanitary condition or be declared a nuisance if not so kept.

SECTION 7. Cruelty to animals. It shall be unlawful for any person to torture, torment, deprive of sustenance, mutilate, overdrive, overload, drive when overloaded, cruelly beat or cruelly kill any animal, or unnecessarily fail to provide the same with proper food, drink, shelter, or protection from the weather, or drive or work any animal when unfit for labor, or cruelly abandon it, or carry the animal, or cause the animal to be cruelly carried on any vehicle or otherwise or to commit any other act or omission by which unjustifiable pain, distress, suffering, or death is caused or permitted to any animal, whether the acts or omissions herein contemplated to be committed either maliciously, willfully, or negligently.

SECTION 8. Exhibitions and fights. No person shall arrange, promote, or stage an exhibition at which any animal is tormented, or any fight between animals or between a person and an animal, or shall keep a place where such exhibitions and fights are staged for the entertainment of spectators.

SECTION 9. Injuries to animals. No person having no right to do so, shall maliciously kill, maim, or disfigure any animal of another, or maliciously administer poison to any such animal, or expose any poisonous substance with the intent that the same should be taken by any such animal.

SECTION 10. Animals Running At Large. It shall be unlawful for the owner of any animal, including but not limited to cats, dogs, cattle, horses, swine, sheep, fowl, or any animal defined as dangerous or vicious by this ordinance, to permit such animal to run at large within the corporate limits of the City or to run after or chase persons, bicycles, automobiles, or other vehicles, or to pass upon the premises of another thereby causing damage to, or interference with, the premises, or to permit any such animal to graze or be staked or tied out to graze on the premises of any person not the owner of the animal without the consent of such person, or to be so staked out or tied as to allow such animal to graze upon any street, alley, or public ground of the City.

1. A dog, properly licensed as required by law, shall not be deemed at-large if:
 - A. The dog is on the premises of the owner or a person given charge of the dog by the owner and is either:
 - i. Restrained on those premises by an adequate protective fence or by leash, cord, chain or other similar restraint that does not allow a dog to go beyond the owner's real property line; or
 - ii. At all times within the actual physical presence of and immediately obedient to the commands of the owner or person given charge of

the dog by the owner. At no time shall the dog be more than fifty (50) feet from such person.

B. The dog is off the premises of the owner and is:

- i. On a leash, cord, or chain or other similar restraint not more than 16 feet in length and under the control of a person competent to restrain and control the dog; or
- ii. Properly restrained within a motor vehicle.

C. The dog and the owner are actively engaged in a generally recognized dog obedience training program or training for a generally recognized kennel club event, provided:

- i. The dog is in the actual physical presence of the owner or trainer at all times;
- ii. The owner or trainer is at no time more than fifty (50) feet from the dog;
- iii. The dog is immediately obedient to the commands of the owner or trainer; and
- iv. The owner or trainer has, at all times, on his or her person a leash of sufficient strength to restrain the dog.

2. A dog shall be deemed to be at-large if it is not properly licensed or if it is not housed, restrained or controlled in one of the methods set forth in subsection A of this section.
3. Notwithstanding any other section of this ordinance, any dog shall be deemed at-large at any time when attacking persons or domestic animals, destroying property, or on a public school ground except when under restraint as set-out in subsection (1) of this section.

SECTION 11. Impoundment. Animals found at large in violation of this chapter shall be seized and impounded, or, at the discretion of the Peace Officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder. The Peace Officer or Animal Control Officer is authorized to provide a pound in some suitable place approved by Council. Rules for the conduct of the pound, for redemption, and the fees to be charged shall be established by resolution of Council.

SECTION 12. Keeping farm and noisy animals. It shall be unlawful to keep or harbor within the City any barking dogs, chickens, ducks, or other fowl which by their barking, crowing,

quacking, or other noises during the night or early morning hours, disturb or annoy the residents of the immediate neighborhood; or to keep swine, goats, sheep, fowl, cattle, ponies, or horses in the City.

SECTION 13. Keeping bees. It shall be unlawful for any person to keep or harbor bees within the City without obtaining the written consent of all the owners, lessees, or occupants of property within the radius of the two hundred (200) feet of the location where the bees are kept, and filing such consent with the City Clerk.

SECTION 14. Barbed wire. It shall be unlawful to use barbed wire within the City without the consent of the Council, the Mayor, or an officer or employee designated by him, is authorized to remove any barbed wire in violation of this requirement if not authorized by the Council.

SECTION 15. Keeping of vicious animals prohibited. No person shall keep, shelter, or harbor for any reason within the City a vicious animal so defined herein, except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.
2. The keeping of guard dogs. However, guard dogs must be kept within a structure of fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of Section 24 of this Code. Any premises guarded by a guard dog shall be prominently posted with a sign containing the words "Guard Dog," "Vicious Dog," or words of similar importance and the owner of such premises shall inform the Mayor and City Law Enforcement that a guard dog is on duty at such premises.

SECTION 16. Disposition of licensed dogs, cats or pets. Owners of licensed dogs, cats or pets which have been impounded shall be notified within two (2) days from impoundment that upon payment of impounding costs the dog, cat or pet will be returned. If impounded licensed dogs are not recovered by their owners within seven (7) days after impoundment they shall be disposed of in a humane manner as directed by the Council.

SECTION 17. Disposition of unlicensed dogs, cats or pets. Impounded unlicensed dogs or other animals may be recovered by the owner, upon proper identification and by payment of the impounding costs. If such dogs, cats or other animals are not claimed within seven (7) days after impoundment they shall be disposed of in a humane manner as directed by the Council.

SECTION 18. Rabies vaccinations.

1. Any dog or cat which has a current rabies vaccination and has been exposed to, bitten or wounded by, a known or suspected rabid animal shall be revaccinated immediately and detained by leashing or confinement for a sixty (60) day period.

2. If a dog or cat has not had current rabies vaccination and has been exposed to, bitten or wounded by, a known or suspected rabid animal, the owner of such animal shall decide an euthanasia of the animal or a six (6) month quarantine in a kennel facility under veterinary supervision.

SECTION 18A. Rabies Vaccination Prior to Issuance of License.

1. Before a license is issued for any dog, the owner must present evidence with the application required that the dog has been vaccinated against rabies. Such evidence shall be a certificate of vaccination signed by a licensed veterinarian, and the certificate shall show that the vaccination is not expired.
2. The requirement vaccination shall be an injection of anti-rabies vaccine approved by the state department of agriculture and land stewardship, and the frequency of revaccination necessary for approved vaccinations shall be as established by such department. The vaccine shall be administered by a licensed veterinarian and shall be given as approved by the state department of agriculture and land stewardship. The veterinarian shall issue a tag with the certificate of vaccination, and said tag shall at all times be attached to the collar of the dog.
3. Notwithstanding any other section of this ordinance, any dog owner who allows the rabies vaccination to lapse at any time during the licensing year will receive a citation and must pay a fine of \$25.00.

SECTION 19. Penalties. Owners who violate this ordinance will charged any and all applicable citation fines, impoundment charges, or municipal infractions, or any combination thereof, which shall be assessed as follows:

1. Citation Fines:

Running at large	\$25.00
No valid license tag	\$25.00
No valid rabies vaccination/tag	\$25.00
Causing a disturbance	\$25.00
Being a nuisance	\$25.00
Failing to dispose of animal waste	\$25.00

2. Impoundment Charges: Fines and charges shall be paid to the Story County Animal Shelter by the owner of any impounded animal upon claim of said animal. Should the owner no longer desire to keep said animal, he may be released of ownership upon payment of all fines and charges. Charges shall include all boarding fees which have been incurred and the cost of any veterinary care which was administered. If any costs were charged to or incurred by the City from the Story County Animal Shelter for the capture, care, and impoundment of an animal, such

amounts shall be charged to and paid by the owner of the animal, plus a \$25.00 service charge.

3. Municipal Infractions: In addition, a violation of any provisions of this chapter may constitute a municipal infraction under Chapter 5 of this Code assessed as follows:

First Offense: \$250.00 min/\$750.00 max

Second and Subsequent Offences: \$750.00 min/\$1,000.00 max

Repeat Offences: Each occurrence constitutes a separate violation.

SECTION 20. Adoption procedure and fees. Shelter fees and adoption procedures and fees shall be in accordance with those established in the Story County Animal Control Ordinance.

SECTION 21. Miscellaneous.

1. No person shall own, keep, or harbor any dog or cat within the City Limits which is not vaccinated against rabies; and any dog which is not licensed by the County.

2. The Story County Animal Control Officer reserves the right to euthanize any animal for which no reasonable veterinary care would prove to be practical to sustain said animal or when said animal is afflicted with a contagious disease which would endanger the welfare of the other animals in the shelter.

3. No person shall aid or cause any animal, whether owned by such person or not, to escape confinement or impoundment, whether such confinement or impoundment be upon such person's property or that of another, by opening any gate, door, or window by making an opening in any such fence, enclosure, or structure, or by unleashing such animal.

4. It shall be the duty of every person owning or having the custody or control of any animal to physically restrain the animal within an enclosure or upon a leash when such animal is left unattended outside or is not at heel. The animal must be restrained so as to prevent the animal from leaving the premises of its owner or from coming in contact with public right-of-way or the property of another. Failure to restrain an animal pursuant to the foregoing shall constitute a misdemeanor.

5. It shall be prohibited for any person in any manner to interfere with any employee or designated representative of the City, so as to hinder, delay, or prevent his executing his duties in relation to the matters of things contained in this Chapter.

6. It is unlawful for any person owning, controlling, or caring for any animal to fail to keep in a clean and sanitary condition the premises and any pen, kennel, shelter, house, or person's dwelling or other structure where the animal is at any time kept. At least once every twenty-four (24) hours, or more often if odors or health problems arise, such person shall pick up any and all feces so as to prevent its accumulation and same shall be properly disposed of. Feces shall be held in watertight and flytight container pending disposal and shall be disposed of at least once a week. The animal and place where the animal is maintained shall also be kept free of obnoxious odors and shall be maintained so as not to attract or permit the harborage or breeding of flies and other insects or rodents or other vermin. All animal food and water shall be stored and placed for the animal's consumption in such a manner so that it will not become food for rodents and other vermin.

7. It is unlawful for any owner or other person to abandon, turn loose, or leave any animal within the corporate limits of the City or so that the animal may find its way into the corporate limits of the City, or to abandon or leave any animal upon or in any premises unattended for a period in excess of three (3) days.

SECTION 22. Keeping of dangerous animals prohibited. No person shall keep, shelter, or harbor any dangerous animal as a pet, or act as a custodian, temporary or otherwise for any such animal, or keep such animal for any other purpose or in any other capacity within the City except as provided in Section 24 of this Code. While the following animals are not declared by this Ordinance to be dangerous per se:

1. Constricting snakes exceeding six (6) feet in length, and
2. Lizard exceeding two (2) feet in length,

the owners of such animals shall, within two (2) hours of knowledge of the possibility of such animals being "at large" within the community shall notify the Mayor and Law Enforcement Officers of the City.

SECTION 23. Dangerous animal exceptions. The prohibition contained in Section 22 of this Code shall not apply to the keeping of dangerous animals in the following circumstances:

1. The keeping of dangerous animals in a public zoo, bona fide educational or medical institution, humane society, or museum where they are kept as live specimens for the public to view, or for the purpose of instruction, research, or study.
2. The keeping of dangerous animals for exhibition to the public by a circus, carnival, exhibit, or show where such circus, carnival, exhibit, or show is of a traveling nature, is displayed before large assemblages of people, and maintains any and all required federal or state licenses.
3. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.

4. The keeping of dangerous animals by a wildlife rescue organization with appropriate permit from the Iowa Conservation Commission.

5. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Conservation Commission, pursuant to Chapters 109 and 109A of the Iowa Code.

SECTION 24. Seizure, impoundment, and disposition of dangerous or vicious animals.

1. In the event that a dangerous 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 person or property, such animal may, in the discretion of the Animal Control Officer or Law Enforcement, 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 found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. The Animal Control Officer or his designee, in his discretion or upon the receipt of a complaint alleging that a particular animal located within the City is a dangerous or vicious animal as defined herein shall cause the matter to be investigated, and if after investigation, the facts indicate that such animal is dangerous or vicious, the Animal Control Officer shall order the owner of such animal to safely remove such animal for the City or destroy the animal, within three (3) days of the receipt of the order. Such order shall be contained in a notice to remove the dangerous or vicious animals which notice shall be given in writing to the owner of such animal and shall be served personally or by certified mail. Such order and notice to remove the dangerous or vicious animal shall not be required where such dangerous or vicious animal has previously caused serious physical harm or death to any person, in which case the Animal Control Officer shall cause the animal to be immediately seized or impounded or killed if seizure or impoundment are not possible without the risk of serious physical harm or death of any person.

3. The order to remove a dangerous or vicious animal issued by the Animal Control Officer may be appealed to the City Council. In order to appeal such order, written notice of appeal must be filed with the City Clerk within three (3) days after the 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 Animal Control Officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the City clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of the notice of appeal. After such hearing, the City Council may affirm or reverse the order of the Animal Control Officer. Such determination shall be contained in a writing three (3) days after the hearing, or any continued session thereof.

5. If the City Council affirms the action of the Animal Control Officer, the Council shall order in its written decision that the owner of such dangerous or vicious animal remove such animal from the City or permanently place such animal with an organization or possess dangerous

animals, or destroy it. The decision and order shall immediately be served upon the owner in the same manner as the notice of removal. If the original order of the Animal Control Officer is not appealed and is not complied within three (3) days or the order of the City Council after appeal is not complied within three (3) days of its issuance, the Animal Control Officer is authorized to seize and impound such dangerous or vicious animal. An animal so seized shall be impounded for a period of seven (7) days. If at the end of the impoundment period, the owner against who the decision or order of the City Council was issued has not petitioned the Story County District Court for a review of said order the City shall cause the animal to be disposed of by sale, permanently place such animal with an organization or group as allowed under Section 23 of this Code to possess dangerous animals or destroy such animal in a humane manner. Failure to comply with an order of the City issued pursuant hereto shall constitute a municipal infraction punishable under Chapter 5 of this Code.

TITLE II - COMMUNITY PROTECTION

CHAPTER 26

NUISANCES

SECTION 1. Definitions. For the use in this chapter the following terms are defined:

1. The term "nuisance" shall mean whatever is injurious to health, indecent, or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property.

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

SECTION 1A. Nuisances enumerated. The following subsections include, but do not limit, the conditions which are deemed to be nuisances in the City:

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

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

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

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

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

6. **Dangers to Aerial Navigation.** Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and

landing unless such object of structure constitutes a proper use or enjoyment of the land on which the same is located.

7. Storing Flammable Junk. The depositing or storing of flammable junk, such as old rags, rope, cordage, rubber, bones, and paper, by dealers in such articles within the City, unless it be in a building of fireproof construction.

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

9. Weeds, Brush and Grass. Dense growth of all weeds, vines, brush, or other vegetation in the City so as to constitute a health, safety, or fire hazard, or not cut as prescribed by this code.

10. Trees. Trees infected with Dutch Elm disease, dead, or dying to the extent that the tree is a danger.

11. Signs. 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.

12. Large Containers. Abandoning or otherwise leaving unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, or allowing any such refrigerator, ice box, or similar container to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children.

13. Unsafe Structures. Any dwelling or any building, structure, excavation, business pursuit, manor, or thing, in or about a dwelling, or the lot on which it is situated, or the plumbing, sewerage, drainage, lighting, or ventilation is in such a condition or in effect dangerous or detrimental to the life or health of the citizens of the community.

SECTION 2. Nuisances prohibited. The creation or maintenance of a nuisance is hereby prohibited, and a nuisance, public or private, may be abated in the manner provided in this ordinance.

SECTION 3. Other conditions prohibited or restricted. If the following restrictions and prohibitions are not followed, the activities below will be deemed to be a nuisance and must be abated in the manner provided in this ordinance:

1. Tree trimming. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting

property owner fails to trim the trees, 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 City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

A. Supervision. Except as allowed in Section 3.1, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

B. Disease Control. Any dead or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

C. Inspection and removal. The Council shall inspect any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

a. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.

b. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such property owner, occupant or person in charge of such property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

2. Dangerous Structures. Any building or structure determined by the Council to be dangerous or unsafe due to structural inadequacies, a manifestly unsafe condition, inadequate maintenance, fire hazard, or abandonment must be removed, repaired, or dismantled. After notice has been served, such work must commence within 48 hours or such reasonable time as the circumstances require, and be completed within ninety (90) days from date of notice, unless otherwise stipulated by the Council.

3. Drainage Systems. The connection to public drainage systems from an abutting property is prohibited unless done in compliance with Title III of this Code.

4. Sewer Connections. The connection to public sewer systems from an abutting property and the installation or removal of sanitary toilet facilities on such property is prohibited unless done in compliance with Title III of this Code.

5. Weeds and Growth. The cutting or destruction of weeds or other growth in a manner which constitutes a health, safety, or fire hazard is prohibited.

6. Mowing of properties. Any property within the City, whether vacated or non-vacated, is required to be mowed at least one (1) time each month or at any time the vegetation reaches a height of more than eight (8) inches by the fifteenth (15th) day of the month in May, June, July, August, September, and October of each year. The areas to be cut shall include the entire yard with grass and grass like vegetation growing and those portions of the alley and street to the center line adjacent to owners' property where grass and grass like vegetation is growing.

A. Notice and billing. Annual publication of this provision will serve as notice to property owners. Any billing for mowing done by the City are to be sent by regular and are payable with thirty (30) days of the billing date.

B. Failure to mow. Any property which is not mowed by the dates specified in Section 3.6 may shall be assessed a cost of \$100.00 per hour for mowing by the City with a \$100.00 minimum fee. There will be an additional \$50 administration fee. If the property owner does not abate the nuisance, the City will mow the property the first week of the following month.

SECTION 4. Notice to abate nuisance or condition. Whenever the Mayor or other authorized municipal officer finds that a nuisance or other condition listed in Section 3 exists, he shall cause to be served upon the property owner as shown by the records of the County Auditor a written notice to abate the nuisance within a reasonable time after notice.

SECTION 5. Contents of notice to abate. The notice to abate shall contain:

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.

SECTION 6. Method of service. The notice may be in the form of an ordinance or sent by certified mail, or served by a peace officer, to the property owner as shown by the records of the County Auditor.

SECTION 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 he finds that a nuisance or prohibited condition exists, he 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 will 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.

SECTION 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 which may be required under this ordinance without prior notice. The City shall assess the costs as provided in Section 10 of this ordinance, after notice to the property owner under the applicable provision of Sections 4 and 5 and hearing as provided in Section 7.

SECTION 9. Abatement of 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. Costs of abatement shall be calculated either by actual costs incurred or by the following schedule:

A. Costs for Use of City Owen Equipment	
1. Tractor (/hr)	\$100.00
2. Truck, with or without snow plow (/hr)	\$100.00
3. Light Truck (/hr)	\$60.00
4. Small Mower/Tractor/Weed Whip	\$100.00/hr (\$100.00 minimum)
5. Skid Loader	\$100.00
6. Payloader	\$125.00
7. Labor Normal Work Hours (/hr)	\$60.00
8. Labor After Hours (/hr)	\$90.00
9. Sidewalk Snow Removal/Ice Control	\$50.00/hr (\$150 minimum)
10. Brush/Tree Trimming/Chain Saw	\$60.00
11. Street Repair Materials	Per Invoice + Labor
12. Rented Equipment	Per Invoice + Labor
13. Towing Fee	Per Invoice + 10%

This schedule may be updated by resolution and will be kept by the City Clerk. The itemized expense account shall be filed with the City Clerk who shall pay such expenses on behalf of the municipality. The City Clerk shall then assess such expenses against the property owner as set forth in Section 10 of this Chapter.

SECTION 10. Collection of costs 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, he shall certify the costs to the County Auditor and it shall then be collected with, and in the same manner, as general property taxes.

SECTION 11. Installment payment of cost of abatement. If the amount expended to abate the nuisance or condition exceed \$100, the City shall permit the assessment to be paid in up to ten (10) annual installments to be paid in the same manner and with the same interest as benefitted property.

SECTION 12. Failure to abate. Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the nuisance within the required and specified time in the notice shall be in violation of the Code of Ordinances.

TITLE II - COMMUNITY PROTECTION

CHAPTER 27

ILLEGAL ACTS

SECTION 1. Illegal activities. In addition to illegal activities covered under the Code of Iowa, the law enforcement personnel, City Council, or Mayor shall enforce the prosecution of illegal activities as set out herein.

SECTION 2. Nude persons prohibited. It shall be unlawful for any person to appear publicly on any licensed premises, or any ordinary business establishment, who is nude or who exposes to public view his or her breasts, buttocks, genitals, or pubes.

SECTION 3. Unlawful displays. It shall be unlawful to display, show, paint, write or speak, shout or voice such obscene words or pictures showing those parts of the body set forth in Section 2 or such words as are considered by contemporary community standards to be offensive and describing some sexual, offal, or other private act or deed.

SECTION 4. Discharging weapons. It shall be unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns or firearms of any kind within the City limits except by authorization of the Council.

SECTION 5. Carrying of Firearms. Firearms may not be carried on City property such as City Hall, City garage, fire station, except for law enforcement personnel employed by the City, county, or State of Iowa.

TITLE II - COMMUNITY PROTECTION

CHAPTER 28

JUNK AND MOTOR VEHICLES

SECTION 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 places authorized.

SECTION 2. Definitions. For use in this chapter, the following terms are defined:

1. The term "abandoned vehicle" shall mean any of the following:

A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two or more wheels or other parts which renders the vehicle totally inoperable.

B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.

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 (24) hours.

D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten days. However, a police authority may declare the vehicle abandoned within the ten day period by commencing the notificatin process in subsection 3.

E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.

2. The term "junk motor vehicle or junk machinery" shall mean any motor vehicle stored within the corporate limits of McCallsburg, Iowa, not licensed for the current year as required by law, and which because of any one of the following characteristics, constitutes a threat to the public health and safety:

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

B. Any vehicle with a broken or loose fender, door, bumper, hood ornament, door handle, window handle, running board, steering wheel, trunk top, trunk handle, radio aerial, tail pipe, or decorative piece.

C. Any vehicle which has become the habitat of rats, mice, snakes, or any other vermin or insects.

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

E. Any other vehicle which, because of its defective or obsolete conditions, in any other way constitutes a threat to the public health and safety.

SECTION 3. Registered Vehicles. Automotive vehicles or trailers of any kind or type without current license plates shall be parked or stored in a completely enclosed building, except where otherwise permitted by this Chapter and Chapter 62 of the City Code.

SECTION 3. Removal of abandoned motor vehicles. The City Mayor may remove and impound any abandoned motor vehicle whether in operable or totally inoperable condition as defined by Section 2(1A). Impoundment shall be by a privately owned towing garage, or in any privately owned public garage or area designated by the City Council. All fees incurred are the responsibility of the vehicle's owner.

SECTION 5. Notice to owner and lienholder. The City Mayor shall notify by certified mail within three (3) days of having taken possession of the abandoned operable motor vehicle, the last known registered owner of the motor vehicle and all lienholders of record addressed to their last known address of record that the abandoned motor vehicle has been taken into custody. Notice shall be deemed given when mailed. Notice shall describe the year, make, model, and serial number of the motor vehicle, set forth, the location of the facility where it is being held, inform the owner and any lienholders of their right to reclaim the motor vehicle within fourteen (14) days after the effective date of the notice upon the payment of all towing, preservation, and storage charges resulting from placing the motor vehicle in custody. The notice shall also state that the failure of the owner or lienholders to exercise their right to reclaim the motor vehicle within the time provided shall be deemed a waiver by the owner and all lienholder of all right, title, claim, and interest in the motor vehicle and that such failure to reclaim is deemed consent to the sale of the motor vehicle at a public auction or disposal of the motor vehicle to a demolisher. If the owner and lienholders do not exercise their right, they shall have no further right, title, claim, or interest in or to such motor vehicle, as provided by law.

1. If the identity of the last registered owner of an abandoned but operable vehicle cannot be determined, or if the registration contains no address for the owner, or if it impossible to determine with reasonable certainty the identity and addresses of all lienholders, notice by one publication in one newspaper of general circulation in this City shall be made by the City Mayor and multiple listings may be included in said notice if they are subject to the same time limits, and the same information as prescribed for mailed notice shall be included.

2. The owner of any lienholder may, by written request, deliver to the City Mayor prior to the expiration of the fourteen (14) days reclaiming period, obtain an addition fourteen (14) days within which the motor vehicle may be reclaimed.

SECTION 6. Impoundment fees. The charges for towing and/or impounding of a vehicle shall be determined by the towing and storing garage.

SECTION 7. Auction of operable vehicles. If an abandoned motor vehicle which is operable has not been reclaimed as provided by Section 4, the City Mayor shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways. If it is to be sold for such use it shall first be inspected as required by law, have a valid certificate of inspection affixed, and shall then be sold, and title be given in accordance with law. Vehicles not sold for use upon the highways shall be sold in accordance with the restrictions in the state law. The purchaser shall take title as provided for by law, or if sold to a demolisher no further titling of the motor vehicle shall be permitted. Proceeds from any sales shall apply to the cost of towing, preserving, storing, and notification required, in accordance with State law, and any balance shall be disposed of as required by law. Where the sale of any vehicle fails to realize the amount necessary to meet costs, the City Mayor shall apply for reimbursement from the State as provided by law.

SECTION 8. Inoperable abandoned vehicles. Any totally inoperable abandoned vehicle as defined in subsection (1A) of Section 2, of this chapter or any such operable vehicle left on private property by other than the owner or person in charge of the private property shall be disposed of by the City mayor to a demolisher unless he deems it practicable to sell it as provided by Section 6 of this chapter. A sale to a demolisher shall not require the notification procedures or public auction, but the City Mayor shall endeavor to obtain as much compensation as possible to defray any costs to the City. A person, firm, corporation, or this City or other unit of government upon whose property or in whose possession is found any abandoned motor vehicle or any person being the owner of a motor vehicle whose title certificate is faulty, lost, or destroyed, may, without notification procedures, dispose of such motor vehicle if it lacks an engine, or two (2) or more wheels, or other structural part which renders the vehicle totally inoperable to a demolisher for junk without the title.

SECTION 9. Duties of demolisher. Any demolisher who purchase or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such a motor vehicle. When a demolisher acquires a motor vehicle under Section 6 and 7 of this chapter, the demolisher shall apply to the City Police for a certificate to demolish the vehicle. The application shall include the name and address of the applicant, the year, make, model, and serial number of the motor vehicle. After the motor vehicle has been demolished, processed, or changed so that it physically is no longer a motor vehicle, the demolisher shall surrender the auction sales receipt, or certificate of authority to dispose of or demolish a motor vehicle to the State Department of Public Safety for cancellation.

SECTION 10. Junk vehicles and machinery a nuisance. It is hereby declared that storage within the corporate limits of a junk motor vehicle or junk machinery upon private property owned or controlled by the owner of the vehicle or machinery, unless excepted by Section 13 of this chapter, 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 motor vehicle or machinery is stored upon private property in violation hereof, the owner of said motor vehicle (who is the owner or the person in control of the property upon which it is stored) shall be prima facie liable for said violation.

SECTION 11. Notice to abate. Upon discovery of any junk motor vehicle or junk machinery stored upon private property within the corporate limits of this City in violation of Section 9, the City Mayor shall within ten (10) days notify by certified mail, or have served by a peace officer, the owner of said motor vehicle or other property owner that:

1. The motor vehicle constitutes a nuisance under the provisions of this chapter;
2. That the owner must remove or repair the motor vehicle or machinery in accordance with the terms of Section 10 of this chapter;
3. That failure to remove or repair the motor vehicle or machinery will be sufficient cause for its removal by the City at the owner's cost.

SECTION 12. Duty of owner to remove or repair. The owner of a junk motor vehicle or junk machinery (who is the owner or person in control of the property upon which it is stored) which violates the provisions of Section 9 of this chapter, must within ten (10) days after receipt of written notice from the City Mayor, remove the motor vehicle or machinery to an auto salvage yard or junk yard duly licensed by this City, or to a lawful place of storage within the city limits, or repair the defects which cause such motor vehicle or machinery to violate the provisions of this ordinance, including licensing of a motor vehicle not currently licensed.

SECTION 13. Abatement. If such owner of a junk motor vehicle or machinery shall fail to remove or repair the motor vehicle in accordance with the terms of Section 10, the City Mayor shall abate such nuisance by causing the motor vehicle to be removed and impounded and sold or disposed of as specified in Sections 5, 6, and 7 and the cost of abatement shall be charged to the owner of the motor vehicle or other property owner.

SECTION 14. Exceptions. The provisions of this chapter shall not apply to a junk motor vehicle or junk machinery stored within:

1. A garage or other enclosed structure; or
2. An auto salvage yard or junk yard duly licensed by the City.

SECTION 15. Penalty. Anyone failing to remove or repair any junk motor vehicle or machinery stored on private property in violation of this chapter shall be Municipal Infraction punishable as provided for in Chapter 5 of this Code.

TITLE II - COMMUNITY PROTECTION

CHAPTER 29

HAZARDOUS MATERIALS CLEAN UP

SECTION 1. Purpose. In order to reduce the danger to public health, safety, and welfare from spills of hazardous substances these regulations are promulgated to establish responsibility for the removal and clean up of spills within McCallsburg, Iowa.

SECTION 2. Definition. For the use in this chapter the following terms are defined:

1. The term "hazardous waste" shall mean any substance as defined in Section 455B.411, Sub-section 3, Paragraph a, Code of Iowa, and the rules of the Iowa Department of Natural Resources.

2. The term "hazardous substances" shall mean any substance defined in Section 455B.381, Sub-section 5, of the 1993 Code of Iowa.

3. The term "hazardous conditions" shall mean the same as set out in Section 455B.381, Sub-section 4, of the 1993 Code of Iowa.

4. The term "persons having control over a hazardous substance" shall mean the same as set out in Section 455B.381, Sub-section 7, of the 1993 Code of Iowa.

5. The term "clean up" shall mean the same as set out in Section 455B.381, Sub-section 1, of the 1993 Code of Iowa.

6. The term "treatment" shall mean a method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a hazardous substance so as to neutralize it or to render the substance non-hazardous, safe for, transport, amendable for recovery, amendable for storage, or to reduce it in volume. Treatment includes any activity or processing designed to change the physical form or chemical composition of hazardous substance to render it non-hazardous.

SECTION 3. Clean up required. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking, or placing of hazardous waste or substance, so that the hazardous substance or waste or a constituent of the hazardous waste or substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a clean up, as defined in the proceeding section, as rapidly as feasible to an acceptable, safe condition. The cost of clean up shall be borne by the person having control of a hazardous substance. If the person having control of a hazardous substance does not cause the clean up to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may proceed to procure clean up services

and bill the responsible person. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the clean up is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any state or federal funds available for said clean up.

SECTION 4. Notification. The first law enforcement officer or city employee who arrives at the scene of an incident involving hazardous substances, if not a peace officer, shall notify the Story County Sheriff's Office, which shall notify the proper state office in a manner established by the State.

SECTION 5. Severability clause. Any section of this ordinance which are found to be inconsistent or in conflict with state or federal laws can be severed and shall not invalidate the remainder of the ordinance.

SECTION 6. When effective. This ordinance shall be in effect after its final passage, approval, and publication as provided by law.

TITLE II -- COMMUNITY PROTECTION

CHAPTER 30

LOCAL HAZARD MITIGATION PLAN

Community Background Commentary

The development of McCallsburg provides an example of the railroad's role in determining the location and growth of many Iowa cities. Although there were settlers in the vicinity by 1868, it was not until 1881 that Captain T.C. McCall of Nevada and H.E.I. Boardman of Marshalltown platted the town as a railroad stop four miles west of Zearing. Boardman and McCall were considered the most prominent and successful businessmen in the county. The pair were the two largest land holders in the county, together owning over 5000 acres. Their political activities (McCall served as a state representative for some years, and Boardman served as a delegate to national political functions and was nominated to state offices) may have accounted for their awareness of and ability to participate in speculative opportunities. The methods of McCallsburg's settlement illustrated a common occurrence in railroad town development the purchase and plating of land by large scale developers with no personal interest in moving to the community.

McCallsburg developed as and remained a shipping point for agricultural products. McCallsburg did not foster any industry other than agriculture-related ones such as a blacksmith shop and grain elevator. Also there was some coal mining undertaken near the town. Its population topped 300 after the arrival of the second rail line in the early 1900's, and the population has remained stable. In 1925 a fire destroyed four business buildings and the town's bank went into receivership, further limiting growth of the community. McCallsburg once had two hotels, two banks, and even two depots. Businessmen such as John Peck made a comfortable living dealing in livestock, lumber and grain shipments. Today one of the sets of railroad tracks has been removed. The depots are gone, as is a portion of the commercial area, but the wide streets indicate the optimism behind the original platting and settlement. This optimism continues today with businesses and other downtown establishments.

McCallsburg continues to remain a viable community today as can be illustrated by the continued growth in new housing construction, the increase in the elementary school population, the establishment of the Economic Development Committee, the cooperative effort between the City of McCallsburg and the Story County Economic Development Committee, and the continued support of the Betterment Committee, and other local organizations. (Source: CIRALG Historic Site Survey).

Community Background

The City of McCallsburg is located in Story County with an average population of 292 residents, per the 1990 census.

The City of McCallsburg adopted a current land use plan in 1995 and established the following goals and objectives to guide the city's future planning and development decisions.

1. Promote quality within the community living environment.
 - A. Provide needed open space and recreational facilities
 - B. Provide for buffering between conflicting land uses and plan future land patterns so that residential development will relate to supportive facilities as well as possible.
 - C. Promote community pride and cohesiveness by encouraging human contact. Provide community focal points such as parks and other gathering places.
 - D. Preserve and protect air and water quality and natural resources.
 - E. Preserve unique areas, as well as those with historic, natural or cultural values.

The future land use plan is the officially adopted program of physical development for the city's future. It depicts graphically and in narrative form the desired general arrangement of land uses encompassed within the City of McCallsburg's jurisdiction and the surrounding area. It is to be used by city officials and citizens as their official guide in making development decisions for the future of the community.

The future land use plan was developed based on the analysis of existing land use arrangements in the city, the analysis of the existing city systems and functions and the goals and objectives for the future of the community developed by the city officials.

The future land use plan for McCallsburg has been developed basically as an extension of the current trends already established in the city (See Future Land Use Map). Based on the population projections developed in the community profile and analysis section of the Comprehensive Plan, an additional nineteen housing units will be needed to accommodate the population increase over the next twenty years in the city. If these additional housing units were all single family homes located on one acre lots the net consumption of land would be less than twenty acres.

Calculations such as the above example can also be computed for commercial and industrial land uses. By using the above example it is concluded that an additional .86 acres of commercial area and 1.00 acre of industrial property could be needed to accommodate and service prospective new residents of the city.

The future land use plan was developed not only on current trends, as has been stated, but utilizing projected land areas needs based on population projections, limitations of soils and other physical factors in the environment and the character of the community as it exists today and should remain in the future.

The City of McCallsburg has a Planning & Zoning Committee which last updated their code of ordinances in 1995, to be in compliance with the state mandated building codes. Mr. Owen

Fincham is the Chairman of the Planning & Zoning Committee, Mr. Fincham oversees the approval or denial of each building permit submitted. After approval by the Planning & Zoning Committee, a building permit signed by the Mayor of McCallsburg is issued from City Hall to the property owner applying for the permit.

The City of McCallsburg primary industry is agriculturally based with private enterprises being a strong secondary industry.

The City of McCallsburg currently provides the following services to the community: water, sewer, and garbage removal. Electricity and Gas Services are provide by Alliant/IES Utilities. Telephone services are provided by Iowa Telecom, and cable television is provided by Minerva Valley, located at Zearing, Iowa.

Description of McCallsburg Base Map - **CRITICAL FACILITIES**

1. City Hall & Fire Station 525 Main
2. Old Water Treatment Plant NE Corner of Lot 6, Block 15, 6th Street
3. Water Tower Lot 3 Morris Addition, County Highway S27
4. Sewage Lagoon SW Corner of City, located by Railroad on Map
5. Pumping Station for Sewer Directly North of Lagoon on Latrobe Street on City Map
6. IES Electrical Station Corner of 6th Street and County Highway E18
7. Colo-Nesco Elementary 430 Latrobe
8. County Highway E18
9. County Highway S27
10. Possible Hazard Facilities
 - 10A. Heart of Iowa Cooperative 135 Latrobe
 - 10B. Scott's Sales Company 550 Main
 - 10C. Holland's Garage 355 Main
 - 10D. Thompson's Salvage Yard 955 Main

Description of Earthquake, Tornado or Wind Hazards

Earthquake Potential Zone: The history for the City of McCallsburg has never recorded any tremors to date. The Hazard Mitigation Committee considers the potential for an earthquake very low, with coverage for potential disaster to follow the routine set up for all natural disasters.

Tornado Hazard Zone: The Hazard Mitigation Committee estimated that while there is a continued threat of tornadoes touching down in McCallsburg, to date there have been no recorded tornadoes within the city limits. The Hazard Mitigation Committee considers the potential for a tornado very high, with coverage for potential disasters to follow the routine set up for all natural disasters.

History of Other Storm Related Damages: The Hazard Mitigation Committee stated that there were occasions of ice, and wind damage, that resulted in the loss of electricity, with the most recent occasion being in March 1990. The Hazard Mitigation Committee considers the potential for ice, and wing damage to be very high, with coverage for potential disasters to follow the routine set up for all natural disasters.

Fire Safety: The Hazard Mitigation Committee stated that the possibility of fire in the downtown business district could present a high potential for damage. The proximity of the buildings, the materials stored in the buildings, the potential of seasonal factors, wind, dry weather, all pose a potential hazard that may require disaster assistance.

Public Works: The Hazard Mitigation Committee stated that they are in the process of contacting Roland and Zearing as possible resources in the case of water contamination. The Hazard Mitigation Committee concluded that while the sewer system required being upgraded, that at this time it poses no threat due to leakage at the lagoon.

Communications: The Hazard Mitigation Committee stated that a communication breakdown is a high potential for the City of McCallsburg. In the event that phone or electrical service is lost, the City would have to rely on cellular phones for communication for all emergency services outside. Due to the fact that the Fire Department/First Responders pagers work with an electrical system to recharge their batteries, should electrical service is lost, with the pager batteries being run down, the Fire Department/First Responders would be without pager contact with the Story County Sheriff's Department and Story County Emergency Management.

Family and School Emergency Plans: The Hazard Mitigation Committee stated that the need for each family to establish an emergency contingency plan is necessary. The Hazard Mitigation Committee also stated that the need to establish a Hazard Mitigation Plan with the Colo-Nesco School District is required. At this time the Hazard Mitigation Committee is unaware of any Hazard Mitigation Plan established by the Colo-Nesco School District. Hazardous Materials: The Hazard Mitigation Committee stated that there is a potential risk for a hazardous waste spill within the City of McCallsburg. The Hazard Mitigation Committee will work in cooperation with the Fire Department/First Responders to establish a pre plan outline of training drills to lower this potential risk.

Current Mitigation Activities

The Hazard Mitigation Committee outlined three flood control alternatives for the City of McCallsburg

1. The installation of a culvert at the corner of S27 & E1 8. To better control the water flow on the north side of town, so that less property damage will occur do to flood damage.
2. Upgrade the storm sewer. To provide better directional control of the water run off due to heavy downpours, so that less property damage will occur do to flood damage.

3. Place a 24" tile with culverts behind the school property lots. To provide better directional control of the flooding that affects the school property and the adjacent property owners to the east of the school property
4. Contact Central Iowa Water Association for their contingency plan concerning water contamination procedures. Also to initiate a resource for fresh water with the communities of Roland and Zearing.
5. Upgrade the sewer system. To provide better directional flow to the existing system to increase the performance of the existing system.

Emergency Services-- FOR EMERGENCY SERVICES - DIAL 911

Coordinator: Jerry Banks, Volunteer Fire Chief
Gene Richardson, President of Volunteer First Responders
Phone Numbers: Jerry Banks (911) or (515) 434-2279
Gene Richardson (911) or (515) 434-2105
Story County Sheriff's Office (911) or (515) 382-6566
Story County Emergency Management (515) 382-7315
Local Emergency Planning Committee (911) or (515)382-7315
Story County Ambulance Service (911) or (515) 382-2111

IS AN EMERGENCY WARNING SYSTEM IN PLACE? YES.

The City of McCallsburg currently has a siren system to notify residents in the event of an actual emergency situation. The siren is set by manually tripping the siren at the fire station, at which point the siren will blow for 3 continuous minutes. The Fire Department and First Responders are notified by Story County Sheriff's Department when a situation is developing that may require emergency services it is on their recommendation or Story County Emergency Management that the signal is sounded. Currently, when the emergency situation has returned to normal the siren will again blow in an all clear signal. The Hazard Mitigation Committee in cooperation with Story County Emergency Management is currently working on a public awareness program to replace the all clear signal, with the signal program currently implemented by Story County Emergency Management.

HAS AN EVACUATION RESCUE PLAN BEEN ESTABLISHED? YES.

The McCallsburg Fire Department and First Responders have an Evacuation Rescue Plan. (This Plan is Located on Page 15.)

EMERGENCY EVACUATION PLAN

The Hazard Mitigation Committee in cooperation with the Volunteer Fire Department and First Responders established the following evacuation/rescue plan:

1. Determine the cause of the emergency. In determining the cause the Fire Department and First Responders would work to establish whatever measure necessary to contain the situation, be it a chemical spill, fire, tornado or wind damage, ice storm and loss of electricity, flooding, or any other emergency.
2. Should an evacuation become necessary based on Story County Emergency Management or the Fire Department/First Responders recommendations, the Fire Department would canvas the town with loud speakers advising the residents to leave the contaminated area.
3. The Fire Department/First Responders with the help of volunteers would canvas the contaminated area on a block by block search for residents to assist them with the evacuation procedure. The search would initiate with the blocks selected as being within the highest risk of contamination or danger.
4. The Fire Department/First Responders with the help of the Story County Sheriff's Department and the Story County Engineer's Department would close the roads to the contaminated areas, thereby decreasing traffic to only emergency medical personnel, utility service personnel, or voluntary crews as needed based on the emergency.
5. The Fire Department/First Responders would then establish McCallsburg City Hall and Colo-Nesco Elementary as First Aid Stations, with the Presbyterian and Lutheran Churches being secondary stations on an as needed basis.
6. The Fire Department/First Responders would then establish Colo-Nesco Elementary School Yard as an Emergency Landing Field for Air Ambulance Helicopters. The lights on the ball field would be provided for landing lights. In case of a power outage the Fire Department/First Responders would use vehicle lights to provide landing lights for the helicopters.
7. The Fire Department/First Responders have on hand back-up generators, and kerosene heaters in the event of an ice storm and lack of electricity. The departments also have pumps available in the event of severe flooding. The departments also have the equipment and have had been trained up to the operations level of training necessary to handle a chemical spill. Anything require expertise in the removal of an operational level of clean-up and removal for a chemical spill would be completed in cooperation with Story County Emergency Management, and the Emergency Hazmat Team according to our 28E Agreement guidelines with Story County Emergency Management.
8. In the event of an emergency concerning Colo-Nesco Elementary without the availability of an Hazard Mitigation Plan from the School, all emergency services would follow the same guidelines as previously established.
9. Major incident would activate Story County's Wide Multihazard Emergency Operations Plan.

Current Mitigation Activities Continued

The Hazard Mitigation Committee at this time would use the resource of volunteers available through the Volunteer Center of Story County Disaster Response Program if needed for a sandbagging effort.

Other emergency services not addressed above:

Story County has a wide multi-hazard Emergency Operations Plan which addresses large scale incidents and the local Emergency Planning Committee's Hazardous Material and evacuation plans. A county wide contract is maintained by the Emergency Management Agency with the City of McCallsburg for Technical Level Hazardous Materials Response.

Hazard Mitigation Goals

Flood Mitigation

1. Minimize flood damages to buildings and personal property
2. Protect public buildings and public utilities
3. Maintain an operational and flood safe business district

Earthquake Mitigation

1. Approve and update building codes as needed.

Tornado, Wind and Ice Mitigation

1. Adopt building codes
2. Develop a landscaping ordinance
3. Improve public awareness
4. Develop a debris removal plan
5. Upgrade siren to radio controlled
6. Identify potential homes/sites for tornado shelters.
7. Develop a retrofitting program

Fire Safety

1. Pre-planning investigations of potential hazards
2. Improve public awareness
3. Develop equipment replacement program

Hazardous Materials

- 1 Pre planning investigations of transportation and storage sites
2. Improve public awareness

3. Review LEPC Hazmat Plans
4. Maintain Operations Level and ICS Training for Fire Department, Awareness level for First Responders

Implementation

Priorities

1. Protective Equipment for Fire Department/First Responders
2. New water tanks for fire-fighting equipment
3. Bigger facility for fire-fighting equipment
4. First Responder vehicle
5. Pre planning list of business for potential hazards
6. Install a culvert at the corner of E18 & S27
7. Improve Storm Sewer System
8. Improve Public Sewer System

Phasing

The Hazard Mitigation Committee proposed the following time table to implement and complete the priorities, 1-6 months, 6-12 months, 12-18 months.

1-6 Months: Protective Equipment for Fire Department/First Responders
Preplanning Business Listings
Installing the Culvert at E18 & S27

6-12 Months: First Responder Vehicle
Bigger Water Tanks for Fire Department

12-18 Months: Storm Sewer Upgrading
Public Sewer Upgrading
Bigger Facility for Fire Department/First Responders

Responsibility

The following list of volunteers who have agreed to follow the priority projects listed until completion:

Installation of Culvert: Dave Granzow, City Council of McCallsburg
Vehicle Upgrading: Gary Hendrick
Pre-Planning for Business: Fire Department/First Responders
Jerry Banks/Gene Richardson

Bigger Facility: Fire Department/Jerry Banks
Storm/Public Sewer: Wallace Loney/Mayor of McCallsburg

Next Steps

To contact Central Iowa Water for their contingency plan.
To contact local businesses for a list of any potential hazards.
To initiate with the City Council of McCallsburg a cooperative effort to complete the capital projects listed.

Periodic Plan Review and Updates

The Hazard Mitigation Team would consider this plan to be updated and reviewed in conjunction with the Comprehensive Plan for the City of McCallsburg, based on a five-year plan.

Statement of Progress.

The Hazard Mitigation Team would present to the City Council of McCallsburg a statement of progress to coincide with the updated review based on the final approval of the Hazard Mitigation and Comprehensive Plan for the City of McCallsburg.

RESOLUTION #145

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MCCALLSBURG, IOWA, ADOPTING A HAZARDOUS MITIGATION PLAN FOR THE CITY OF MCCALLSBURG.

WHEREAS, the City Council of the City of McCallsburg, Iowa has authorized the development of a Hazardous Mitigation Plan for the City of McCallsburg, and

WHEREAS, the City Council of the City of McCallsburg has participated in the formulation of the plan; and has recommended the adoption of said Hazardous Mitigation Plan; and

WHEREAS, a Public Hearing has been held in the City Hall for the purposes of obtaining citizen input on the Hazardous Mitigation Plan.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of McCallsburg, Iowa, herewith adopts said plan, incorporation citizen comment and recommendations.

PASSED AND ADOPTED THIS 5th DAY OF APRIL, 1999.

ATTEST:

Wallace W. Loney, Mayor

Joyce Rasmussen, City Clerk

CHAPTER 31

INTERNATIONAL BUILDING CODE

- 31.1 Adoption of Uniform Building Code
- 31.2 Application to Existing Buildings and Structures
- 31.3 Alternate Materials and Methods of Construction
- 31.4 Board of Appeal
- 31.5 Permits
- 31.6 Fees
- 31.7 Inspections
- 31.8 Certification of Occupancy
- 31.9 Fire Marshal's Rules
- 31.10 Factory Built Structures
- 31.11 Abatement of Dangerous Buildings
- 31.12 Building Inspector
- 133.13 Authority to Enforce

31.1 ADOPTION OF UNIFORM BUILDING CODE. The International Building Code, 2009 Edition (called IBC) as published by the International Conference of Building Officials is hereby adopted and designated, together with and subject to the additions, deletions and modifications hereinafter stated, as the Building Code of the City. Copies of the said IBC shall be on file in the office of the City.

(State Law Ref Iowa Code Sec. 103.A12)

31.2 APPLICATION TO EXISTING BUILDINGS AND STRUCTURES.

Delete the conflicting IBC section and insert in lieu thereof the following:

Existing Installations. Buildings in existence at the time of the adoption of this code may have their existing use or occupancy continued if such use or occupancy was legal at the time of adoption of this code, provided such continued use is not dangerous to life. Those buildings in existence at the time of the adoption of this code which were not legal may also have their use continued except when such continued use will create a potential hazard. If it is judged to be a potential hazard, the problem will be corrected to comply with the current code.

Buildings which have been granted retroactive conversion permits shall be treated as buildings in existence whose use or occupancy was legal at the time of adoption of this code.

31.3 ALTERNATE MATERIALS AND METHODS OF CONSTRUCTION. Amend the IBC to provide as follows.

The provisions of this code are not intended to prevent the use of any material or method of construction not specifically prescribed by this code, provided an alternate has been approved and its use authorized by the City.

The Planning and Zoning Committee or City Council may approve any such alternate, provided he finds that the proposed design is satisfactory and complies with the provisions of this code and that the material, method or work offered is for the purpose intended, at least the equivalent of that prescribed in this code in suitability, strength, effectiveness, fire resistance, durability, safety and sanitation.

The City shall require that sufficient-evidence or proof be submitted to substantiate any claims that may be made regarding its use. This evidence considered, may include published supplements to the International Building Code dated 2009 or later. The details of any action granting approval of an alternate shall be recorded and entered in the files of the code enforcement agency.

31.4 BOARD OF APPEAL. The Board of Appeal shall be the McCallsburg Board of Adjustment herein called the Board for appeals concerning disputes made by building official or council.

31.5 PERMITS.

1. Required. No new construction or expansion of current structures shall proceed without first securing a building permit. Any structure which is permanently attached to the ground by foundation, anchors, etc., shall be erected, moved, or added to, without a permit therefore issued by the Planning and Zoning Committee. No building permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Planning and Zoning Committee. Fees for building permits shall be as provided by City resolution. Building permits shall be applied for at City Hall and shall expire one year after the date of issuance if work is begun within 180 days of issuance or after one-hundred eighty (180) days if no substantial beginning of construction has occurred. Extensions of time may be granted in writing, prior to expiration, by the Planning and Zoning Committee for good cause. Applicants for building permits shall provide the name and registration number required by State law for all contractors to be engaged in the development.

1A. Permits Required. It shall be unlawful for any person to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any building or structure in the City, or cause the same to be done, without first obtaining a separate building permit for same from the Planning and Zoning Committee. All permits shall be in conformity with the provisions of this chapter except for a waiver issued by the Planning and Zoning Committee or City Council.

Exempted Work. A building permit shall not be required for the following:

- A. One-story detached accessory buildings used as tool and storage sheds, playhouses and similar uses, provided the projected roof area do not exceed 120 square feet.
- B. Movable cases, counters and partitions not over 5 feet 9 inches high.

- C. Painting, papering and similar finish work.
- D. The exterior of buildings, such as roof covering replacement, siding, doors, windows and miscellaneous maintenance items.
- E. Repair the reconstruction or renewal of any part of an existing building for the purpose of its maintenance.
- F. Exemption from the permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

2. Application for Permit. A permit shall be issued only to a Registrant as provided above, and only after the requirements defined in this section have been accomplished. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished for that purpose by the City. Every such application shall:

- A. Identify and describe the work to be covered by the permit for which application is made.
- B. Describe the land on which the proposed work is to be done, by house and street address, legal description or similar description that will readily identify and definitely locate the proposed building or work.
- C. Indicate the use or occupancy for which the proposed work is intended.
- D. Be accompanied by plans and specifications.
- E. State the valuation of the proposed work.
- F. Be signed by the applicant (registrant), or his authorized agent, who may be required to submit evidence to indicate such authority.
- G. Give such other technical information and data about the project as reasonably may be required by the City.

3. Plans and Specifications.

- A. With each application for a building permit as required by the City for enforcement of any provisions of the Code, two (2) sets of plans and specifications shall be submitted, Included in the plans shall be a site plan with minimum scale of one inch equals twenty feet. Plans for one and two-family dwellings and garages

need not be prepared by an architect or engineer unless specifically requested by the Building Official and need not include plans for electrical, mechanical and plumbing. Plans for all other structures shall include electrical, mechanical and plumbing plans, and shall be prepared and stamped by an architect or engineer registered to practice in the State of Iowa. The Building Official may waive the requirements for engineer or architecturally approved plans for the following building types:

- (1) Buildings used primarily for agriculture purposes.
- (2) Nonstructural alterations to existing buildings which do not change the use of a building.
- (3) Churches and accessory buildings whether attached or separate, not more than two stories in height and not exceeding two thousand square feet gross floor area.
- (4) Plans and specifications shall be drawn to scale upon substantial material or cloth and shall be of sufficient clarity to indicate and demonstrate the extent of the work proposed, and shall include that level of detail necessary to demonstrate that the plans and specifications conform to the provisions of this Code and all relevant laws, ordinances, rules and regulations. The first set of each set of plans shall give the building and street address of the work and the name and address of the owner and the person who prepared them. Plans shall include a plot plan showing the location of the proposed building and of every existing building on the property. In lieu of detail specifications, the Building official may approve references on the plans to a specific section or part of this Code or other ordinances or laws.

B. Computations, stress diagrams, and other data sufficient to show the correctness of the plans shall be submitted when required by the building official. Plans for buildings more than two (2) stories in height of other than residential occupancies shall indicate how required structural and fire-restrictive integrity will be maintained where a penetration will be made for, mechanical plumbing, and communications conduits and pipes, and similar systems.

4. Building Permits Issued.

A. When the City issues the permit, all affected inspectors shall endorse in writing or stamp on both sets of plans and specifications "Approved." Such approved plans and specifications shall not be changed, modified, or altered without authorization from the City, and all work shall be done in accordance with the plans. One set of plans, specifications, and computations shall be retained by the City.

B. The City may issue a permit for the construction of part of a building or structure before the entire plans and specifications for the whole building or structure have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of this Code. The holder of such permit shall proceed at his/her own risk without assurance that the final permit for the entire building or structure will be granted.

5. Validity of Permit.

A. The issuance of a permit or approval of plans and specifications shall not be construed to be a permit for or approval of any violation of any of the provisions of this Code. No permit appearing to give authority to violate or cancel the provisions of this Code shall be valid, except insofar as the work or use which it authorizes is lawful.

B. The issuance of a permit based upon plans and specifications shall not prevent the Building Official from thereafter requiring the correction of errors in said plans and specifications or from preventing building operations being carried on thereunder when in violation of this Code or of any other ordinance of the City.

6. Expiration of Permit. Every permit issued by the City under the provisions of this Code shall expire by limitation of time and become null and void if the building or work authorized by such permit is not commenced within one year from the date of such permit or if the building or work authorized by such permit is suspended or discontinued for a period of 90 days at any time after the work is commenced. Before such work can be recommenced, a new permit shall be first obtained so to do, and the fee therefor shall be one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year.

7. Suspension or Revocation of Permit. The City may in writing, suspend or revoke a permit issued under provisions of this Code whenever the permit is issued in error or on the basis of incorrect information supplied, or in violation of any ordinance or regulation or any of the provisions of this Code or of any other ordinance of the City.

31.6 FEES.

1. Fees. All fees required shall be paid to the City Clerk, who shall keep complete and accurate record of fees received and shall forthwith deposit them to the credit of the general revenue fund of the City. Failure to approve any request made in an application, petition or appeal shall not be cause to refund the fee. All fees shall be set by resolution of the City Council.

2. Refunds. There shall be no refund of building permit fees except:

A. When a permit is issued on the part of the City, and it is found that the work applied for cannot be allowed (the refund shall be made in full).

B. When an error has been made in fee calculation.

31.7 INSPECTIONS.

The City is not responsible for inspections. The contractor will certify compliance with the Code. The City Council will decide if an inspection of the contraction is required. The cost of said inspection shall be paid by the application. Structures for residential purposes over 700 square feet and all structures in commercial or industrial zones shall have required inspections.

31.8 CERTIFICATION OF OCCUPANCY.

1. Use or Occupancy. No premises or building or structure classified under the IBC in Groups R-1, A, B, E, F, H, I, M and S inclusive shall be used or occupied, and no change in the existing occupancy classification of a premises or building or structure or portion thereof shall be made until the City has issued a Certificate of Occupancy as stated in this Code.

2. Change in Use. Changes in the character of use of a building shall not be made except as specified in the IBC.

3. Certificate Issued. After final inspection when it is found that the premises and building or structure complies with the provisions of this Code and with other pertinent ordinances of this jurisdiction, the City shall issue a Certificate of Occupancy which contains the following:

A. The address of the building.

B. The name and address of the owner.

C. A description of that portion of the building for which the certificate is issued.

D. The name of the Building Official.

E. The zoning district in which the use is located.

4. Temporary Certificate. A temporary Certificate of Occupancy may be issued by the City for the use of a portion(s) of a building or structure prior to the completion of the

entire building or structure, if the Building Official finds that no substantial hazard will result.

5. Revocation. The City may, in writing, suspend or revoke a Certificate of Occupancy issued under the provisions of this Code whenever the certificate is issued in error, or on the basis of incorrect information supplied, or when it is determined that the building or structure or portion thereof is in violation of any ordinance or regulation or any of the provisions thereof is in violation of any ordinance or regulation or any of the provisions of this Code.

31.09 FIRE MARSHAL'S RULES.

1. The IBC is amended by adding a sentence as follows: Rules promulgated by the State Fire Marshal may also apply.

31.10 FACTORY BUILT STRUCTURES. The state of Iowa regulations pertaining to the manufacture and installation of factory built structures promulgated as Section 103A.9 Code of Iowa, 1989, and Part 661, Sections 16.610(1)-16.699 inclusive, Iowa Administrative Code, are by this reference adopted as part of the City Building Code to be applied and enforced as such.

31.11 ABATEMENT OF DANGEROUS BUILDINGS.

1. Dangerous Building Defined. For the purpose of this code, any building or structure which has any or all of the conditions or defects hereinafter described shall be deemed to be a dangerous building, provided that such conditions or defects exist to the extent that the life, health, property or safety of the public or its occupants are endangered:

A. Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

B. Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

C. Whenever the stress in any materials, member or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location.

D. Whenever any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new.

E. 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.

F. Whenever any portion 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 one half of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings.

G. Whenever any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

H. Whenever the building or structure, or any portion thereof, because of (i) dilapidation, deterioration or decay, (ii) faulty construction; (iii) the removal, movement or instability of any portion of the ground necessary for the supporting of such building; (iv) the deterioration, decay or inadequacy of its foundation; or (v) any other cause, is likely to partially or completely collapse.

I. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

J. 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.

K. Whenever the building or structure, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

L. 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 (i) an attractive nuisance to children;(ii) a harbor for vagrants, criminals or immoral persons, or as to(iii) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

M. Whenever any building or structure has been constructed, exists or is maintained in violation of any specific requirements or prohibited applicable to such building or structure provided by the building regulations of this City, as specified in the Building Code, or Housing Code, or of any law or ordinance of this state or City relating to the condition, location or structure of buildings.

N. Whenever any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting pad, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the (i) strength, (ii) fire-resisting qualities or characteristics, or (iii) weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

O. 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 the health officer to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.

P. 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 to be a fire hazard.

Q. 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.

R. 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 months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

2. Enforcement.

A. Administration. The appointed Building Inspector, City Fire Chief, or their designees are authorized to conduct inspections and take any other actions to carry out and enforce the provisions of this chapter relating to dangerous buildings.

B. Abatement. All buildings or portions thereof which are on inspection determined to be dangerous, as provided in subsection (1) above, are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, vacating/securing against entry, demolition or removal in accordance with procedures set forth herein.

C. Notice and Order. When the Building inspector has determined that a building is dangerous, the City Clerk shall give a notice of that determination and order of abatement directed to the owner of record, by certified mail, and shall post a copy of the notice conspicuously on the property.

D. Contents of Abatement Order. The order shall identify the problems found and set forth a plan of abatement for the dangerous building. The Building Inspector may include in the plan the requirement that the owner furnish to the Building Inspector an engineering report, structural study or other professionally credentialed evidence for the purpose of determining an appropriate plan of abatement. The order shall set a date for commencement and completion of the plan.

E. Failure to Obey Abatement Order. If any order of the Building Inspector has not been complied with, the Building Inspector may cause the person to be prosecuted or institute actions to abate the building as a public nuisance by securing against entry, repair or demolition.

F. Appeals.

(1) The owner may take an appeal to the City Board of Adjustments where it is alleged that the Building Inspector erred in the determination that a building is dangerous or where the Building Inspector rejects or refuses to approve the mode or manner of construction, or material to be used in the repair or abatement of a dangerous building.

(2) Hearing. A hearing under the dangerous building provision of this code will be held in accordance with normal Board hearing procedures.

(3) Standards. In determining whether a building is dangerous, the Board shall consider whether a building or structure has any or all of the conditions set forth in Sec. 1.131(1) of this chapter to the extent that the life, health, property or safety of the public or its occupants are endangered, In considering alternative materials and methods of construction, the Board may approve any alternate if it finds that the proposed design is satisfactory and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Also, the Board shall require that sufficient evidence or proof be submitted to substantiate any claim that may be made regarding the use of alternates.

(4) Failure to Obey Order. When a decision or order of the Board of Appeals becomes final, and is not complied with, the Building Official may

cause the person to be prosecuted or institute actions to abate the building as a public nuisance by securing against entry, repair or demolition.

(5) Recovery of Cost. Estimate of the cost of the proposed work needed to abate the nuisance shall be obtained and presented to the Board. Should the decision of the Building Inspector not be appealed or be upheld by the Board and finds be necessary to repair or demolish a structure, this request shall be presented to the City Council. Said cost may then be assessed in accordance with Iowa law. This shall not prevent action from being taken during emergency situations with City Administrator's approval. This shall be done in accordance with Iowa law and established procedures.

G. Validations. It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish; equip, use, occupy or maintain any building or structure; cause or permit the same to be done in violation of this section.

31.12 BUILDING INSPECTOR.

1. At its first meeting in January following the regular City election, the Council shall appoint by majority vote a Building Inspector who shall serve at the pleasure of the Council for a term of one (1) year.
2. The Building Inspector shall be qualified by training and experience in the construction and inspection of structures, buildings, mechanical systems, plumbing, and electrical wiring.
3. An independent contractor who serves as Building Inspector shall be bonded against errors, omissions and malfeasance in an amount determined by the Council and shall provide evidence to Clerk at least annually.

31.13 AUTHORITY TO ENFORCE.

1. Building Inspector shall enforce the provisions of the code and shall, with respect to the structure purpose regulated by this document.
2. Right of Entry. The applicant for the permit is the owner's implied consent that the City shall have reasonable right to enter into and upon such structure premises for which the permit application is made. The City by and through its Building Inspector, agents, employees shall exercise the right of entry for the purpose of enforcing compliance with this code.

3. Enforcing Authority. In addition to any remedy authorized by this code and by Iowa Law, the Building Inspector shall have the authority to do all things reasonable and necessary and thereafter described to insure compliance with this code.
4. The Building Inspector may inspect, review, test, and re-test the structure or structures or/and portion of a structure, and do all things reasonable and necessary compliance with this code.
5. Building Inspector may order some or all of the work temporarily suspended at specific times or when specific procedures or steps in certain work have been completed so as to allow the Building Inspector to inspect the structure or any portion thereof.
6. The Building Inspector may order any part of the structure previously completed to be removed, exposed, dismantled or uncovered to allow the Building Inspector to inspect the structure or any portion thereof.
7. If the Building Inspector determines that any part of a structure is not in compliance with the requirements of this Code or the application for permit, the Building Inspector shall order that any part of the structure be removed, repaired, replaced, moved, or otherwise altered as necessary to bring the structure into compliance with the requirements of this Code.
8. If the Building Inspector determines that any electrical, mechanical, or plumbing system is not in compliance with the requirements of this Code and that such system poses a fire hazard, it is likely to cause sickness or disease, or is otherwise likely to be detrimental to public health, safety, or welfare, the Building Inspector may order that the system be shut down or disconnected from power sources, water supplies, or drains or otherwise secured in a manner to minimize such harm.
9. The Building Inspector may order all work stopped. The Building Inspector shall deliver to the owner or the owner's agent or shall mail by certified mail addressed to the owner the written stop order describing the reasons therefor. Within 24 hours of the oral order, the Building Inspector shall prepare the written order.
10. The Building Inspector may include with the record of applications of any licensee a description of errors, emissions, and noncompliance with this Code.
11. The Building Inspector shall make a good faith effort to respond to a request for inspection within 24 hours from the time of receiving notification.

TITLE III - PUBLIC SERVICES

CHAPTER 32

WATER SYSTEM REGULATIONS

SECTION 1. Definitions. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. The term "consumer" shall mean in addition to any person receiving water service from the City the owner of the property served, and as between such parties the duties, responsibilities, liabilities, and obligations hereinafter imposed shall be joint and several.

2. The term "water main" shall mean a water supply pipe provided for public or community use.

3. The term "water service pipe" shall mean the pipe from the water main to the building served.

4. The term "water system" or "waters works" shall mean all public facilities for securing, collecting, storing, pumping, treating, and distributing water.

5. The term "water committee" shall mean a group of three (3) persons appointed from the City Council to be primarily responsible for the operation of the water system.

SECTION 2. Committee. The Waterworks System shall be under the control of the Council. The Mayor shall appoint a Waterworks Committee of the Council of three members who shall have supervision of the Waterworks System, make recommendations and reports to the Council concerning the Waterworks System, subject however, to authorization and control by the whole Council.

SECTION 3. Personnel. The Council may authorize the appointment or employment by the Mayor or the Waterworks Committee of a qualified person to perform all ministerial duties connected with the Waterworks System, such as operating the pumps, reading meters, inspection of service connections, and related matters. The Council shall fix the compensation for any person appointed or employed to perform services in connection with the Waterworks System.

SECTION 4. Mandatory connections. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use, shall be connected to the public water system and metered, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

SECTION 5. Abandoned connections. When an old water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation cock and made absolutely water-tight.

SECTION 6. Permit. Before any person shall make a connection with the public water system, a written permit must be obtained from the Clerk. The application for the permit shall be filed with the Clerk. 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 will be allowed except by written permission of the Clerk. The Clerk shall sign and issue the permit and state the time of issuance, if the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid. Work under any permit must be begun within sixty (60) days after it is issued, and must be completed within one year of such date. The Clerk may, at any time, revoke the permit for any violation of this chapter and require that the work be stopped.

SECTION 7. Fee for permit. Before any permit is issued, the person who makes the application shall pay Twenty-five (\$25) dollars to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspection of the work. In addition there shall be a connection charge in the amount of not less than one hundred fifty dollars (\$150), or more than the actual cost of connecting the property and the extension of the water line; provided, however, such connection fee shall not be applicable in subdivisions where the water main was installed at the expense of the subdivider or to commercial or industrial users which fees shall be negotiable.

SECTION 8. Compliance with plumbing code. The installation of any water-service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural, or enforcement provisions, of the State Plumbing Code.

SECTION 9. Inspection required. All installations of water service pipes, service line installed, and connections to the water system shall be made by a competent person and shall be subject to the inspection by the Water Committee.

SECTION 10. Connection specifications. All taps into water mains shall be made by or under the direct supervision of the Water Committee, or an appointed representative, and in accord with the following:

1. Independent Services. No more than one house, building, or premises shall be supplied from one tap unless special written permission is obtained from the City Council and unless provision is made so that each house, building, or premises may be shut off independently of the other.

2. Connection Specifications. All water pipes from the corporation cock in the water main to the curb stop, shall be copper pipe, not less than 3/4 inch in diameter and shall be laid deep enough to prevent freezing and not less than 4 1/2 feet in depth, subject to approval of the Water-

works Committee of the Council. The curb stop shall be located within five (5) feet from the lot line of the property being served. Three-fourths (3/4) inch copper pipe shall be used from the curb cock to the meter of the property served.

3. Corporation Cock. A brass corporation cock, of the pattern and weight approved by the Water Committee, shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Water Committee in such form as the Water Committee shall require.

SECTION 11. Installation of water service pipe. Water service pipes from the main to the meter setting shall be standard weight type K copper. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

SECTION 12. Curb stop. There shall be installed a main shut-off valve of the inverted key type on the water service pipe at the outer sidewalk line or at such other location as approved by the Water Committee and equipped with a suitable lock of a pattern approved by the Water Committee. 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.

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SECTION 13. Interior stop and waste cock. There shall be installed a shut-off valve and waste cock on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently and the pipes drained. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

SECTION 14. Inspection and approval. All water service pipes and their connections to the water system must be inspected and approved in writing by the Water Committee before they are covered, and the Water Committee shall keep a record of such approvals. If the Water Committee refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Water Committee to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

SECTION 15. Completion by the City. Should any excavation be left open or only partly refilled for twenty- four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the Water Committee shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

SECTION 16. Unlawful tamper. It shall be unlawful to tamper with, injure, or damage any curb cock, curb cock box or cover, meter, fire hydrant, pump control device, or other property connected with the waterworks system.

SECTION 17. Shutting off water supply. Except in the case of Section Four (4) of this article where other regulations exist, the City Mayor may shut off the supply of water to any customer, after reasonable notice, because of any substantial violation of this chapter that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the City Mayor has ordered the water to be turned on.

SECTION 18. SECTION DELETED.

SECTION 19. Property owner's responsibility. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

SECTION 20. 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.

SECTION 21. Operation of curb stop. It shall be unlawful for any person except the Water Committee to turn water on at the curb stop.

SECTION 22. Location of meters. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

SECTION 23. Meter setting. The property owner shall have provided all necessary piping and fittings for proper setting of the meter including a globe type valve on the discharge side of the meter. Meter pits may be used only upon approval of the Water Committee and of a design and construction approved by them.

SECTION 24. Meter repairs. Whenever a water meter owned by the City is found to be out of order the Water Committee shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the consumer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

SECTION 25. Right of entry. The Water Committee shall be permitted to enter the premises of any consumer at any reasonable time to read, remove, or change a meter.

TITLE III - PUBLIC SERVICES

CHAPTER 33

WATER RATES AND FEES

SECTION 1. Service charges. Each consumer shall pay for the water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises, or connection shall be considered a separate and distinct consumer whether owned or controlled by the same person or not.

SECTION 2. Water rates. The water rates for all water consumed, where the water is measured by meter, shall be as follows:

Minimum charges of \$13.08 - water service
\$10.60 - sewer service
\$13.53 - garbage service

The minimum charge for each water service, whether such service be measured by meter or a flat rate to such consumer shall be \$13.08 dollars per month. Where the water consumed is measured by meter, the amount charged shall be the meter rate as herein *fixed*, but in no event shall be less than the minimum *charge per month for water consumed*.

Any apartment house or multiple dwelling where separate dwelling units are provided, shall pay the minimum rate herein provided for each such dwelling unit thereof, unless the same shall be measured by meter.

SECTION 3. Meter accuracy and test. All water shall be measured by meters of such type and manufacture as shall be approved by the Council. The City shall maintain the meter in repair and running order for the accurate measurement of water consumed. Any meter found in disrepair or not operating or inaccurate, shall be repaired at the expense of the City.

SECTION 4. Meter reading. All water meters, where required by the Council, shall be read monthly or by direction of the Council at least quarterly on or before the first day of February, May, August, and November of each year. The City Clerk shall have control of the clerical department of the waterworks system. Water bills, whether computed or meter readings or on the minimum charge, shall be submitted monthly on the first day of each month, billed by the 10th of the month, and be due and payable by the 30th of each month. Delinquent notices shall be sent, by regular mail, to any household delinquent on the 5th of the following month. If any water bill is not paid before the 20th of the month it becomes due the bill will be delinquent and the water service to the delinquent property shall be shut off.

SECTION 5. Records. The City Clerk shall keep separate records of all money received from the collection of water bills, and other charges for service or sale of material

connected with the waterworks system. The Clerk shall likewise keep a separate and accurate account of all expenditures chargeable against the waterworks system and upon direction of the Council, shall deposit the surplus net earnings of the waterworks system into the Waterworks Bond Sinking Fund.

SECTION 6. Deposits. All customers shall be required to pay a non-refundable deposit of \$100 within the first thirty (30) days of habitation. If the deposit is not paid within the first thirty (30) days of habitation, the deposit will be charged to the utility bill. The deposits will be refunded to homeowners when they leave the residence after the last bill has been paid. Delinquent users shall be required to pay a new deposit to continue service.

SECTION 7. Water turned on/off. The fee for turning on or off all water service at the curb stop shall be twenty-five (\$25) dollars.

SECTION 8. Late payment penalty. Consolidated bills for water, sewer, and garbage not paid when due shall be considered delinquent. Late payments shall be assessed interest of 1 ½ % interest or five (\$5) dollars if not received by the end of City business hours on the 19th of each month.

SECTION 9. Service disconnected. Water service to delinquent consumers shall be discontinued in accordance with the following:

1. Notice. The Clerk shall notify each delinquent consumer that water service will be discontinued if payment, including late payment charges, is not received by the last day of each month. Such notice shall be sent by first class mail within five (5) days of a bill becoming delinquent.

2. Service Discontinued. The Water Committee shall shut off the supply of water to any consumer who, not having contested the amount billed in good faith, has failed to make payment by the date specified in the notice of delinquency.

3. Fees. When notices are given or posted on the property for water service to be discontinued for non-payment of a water bill, a service fee of \$25 shall be charged to cover the costs of said notice. If payment in full for the water bill is tendered to the Water Committee at the time of the shut-off trip; there shall be added a service fee of \$35 to meet the cost of the trip and the Water Committee shall give the consumer a receipt for said payment. An additional turn-on fee of \$35 shall be charged if separate turn-off and turn-on trips are necessary before payment is rendered and service is restored to a delinquent consumer. No turn-on fee or service fee shall be charged for the usual or customary trips for the regular changes in occupancies of property. If the actual cost is greater than the \$35 fee, the consumer shall pay the actual cost.

4. Damaged Meter. If a water meter or the meter connection is damaged, the repairs shall be assessed to the property owner unless the damage is ordinary wear and tear from normal usage. The property owner shall be assessed a fee of \$25 for the repair plus the cost of the parts.

SECTION 10. Lien for non-payment. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

SECTION 11. Lien exemption. The lien for non-payment shall not apply to residential rental properties where water service is separately metered and the charges therefor are paid directly by the tenant, providing the landlord has given written notice to the Clerk that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety (90) days of water service is paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of occupancy and the date of occupancy. A change in tenant shall require a new written notice and deposit. When the tenant moves from the rental property, the Clerk shall refund the deposit if the water service charges are paid in full and the lien exemption shall be lifted from the rental property.

SECTION 12. Temporary vacancy. A property owner may request water service be temporarily discontinued and shut off at the curb stop when the property is expected to be vacant for an extended period of time not to exceed six (6) months. There shall be a twenty-five (\$25) dollar fee collected for shutting the water off at the curb stop and a twenty-five (\$25) dollar fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall be no monthly minimum service charge. The City will not drain pipes or pull meters for temporary vacancies. During any temporary vacancy the minimum fees charged for water, sewer or garbage service will continue and be paid.

SECTION 14. Delinquency and lien notices. When service charges for one or more of the utilities become delinquent, the Clerk shall give notice of such delinquency to a landlord who has filed a request to be notified when the tenant is notified of the delinquency. In addition, before placing a lien on the owner's property, the
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Clerk shall give ten (10) days written notice by first class mail to the property owner of record who has filed a request to be notified of such lien.

SECTION 15. Service Line Abandonment. Whenever an individual service line is permanently abandoned, the service line shall be physically disconnected as described below. The service shall be considered to be abandoned when a permit is issued for a new or replacement service for that property. Service shall also be considered to be abandoned when a service has been inactive or unused for six months, unless an extension is granted in writing by the City. The service line shall be physically disconnected within 30 days after abandonment. The water service shall be disconnected at the water main or at the curb stop by using an approved plug as directed by the City. If the property will not be built on again, then the owner must disconnect at the main

unless the Council waves that request. Disconnection, reconnection, and restoration of infrastructure, shall be paid for by the property owner.

TITLE III - PUBLIC SERVICES

CHAPTER 34

WATER MAIN EXTENSIONS

SECTION 1. Purpose. The purpose of this chapter is to provide a means and method for the extension of water mains to serve property not served by an existing water line so as to preserve and improve the peace, safety, health, welfare, comfort, and convenience of the residents of the City.

SECTION 2. Definitions. For the use in this chapter the following terms are defined:

1. The term "builder" shall mean the owner of land who causes a water main to be installed under the provisions of this chapter shall be referred to as the "builder" and such term shall mean the heirs, successors, or assigns of such owner.

2. The term "estimated cost" shall mean a cost estimate prepared by a registered professional engineer or qualified contractor experienced in the installation of water main pipe and appurtenances. All such estimates are subject to the approval of the Council and in the event of any disagreement as to the amount of estimated costs, materials to be used or installation methods, the determination of the Council shall be final and conclusive.

3. The term "construction by city" shall mean an owner of land abutting or adjoining a public street where no water main has been installed may make application to the Council for the installation of a water main in said street for the purpose of serving said property in accordance with the following:

A. Application and Deposit. A written request for such installation and a sum equal to the total estimated cost of such installation from the point where the water main is presently installed and terminates to the point where the most distant boundary of the owner's lot abuts the said public street, shall be submitted to the Council.

B. Construction. Upon receipt of the deposit, the City shall construct the said water main for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.

C. Additional Costs. In the event the actual cost to the City of installation of the water main is in excess of the estimated cost, the builder shall reimburse the City for such actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.

D. Lien Authorized. In the event of the failure of the builder to reimburse the City, as specified in Sub-section C above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder's real estate. The landowner's written

request for installation of the water main shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

E. **Maximum Cost.** The additional cost of installation, as contemplated in Subsections C and D above, shall not exceed One Hundred Ten (110%) percent of the estimated cost.

F. **Connecting Property.** The expense of connecting the property of the builder to the water main laid in the public street shall be borne by the builder, in addition to the cost of constructing said water main, but such connection shall be under the supervision of the City.

SECTION 5. Construction by owner. In the event an owner of land abutting or adjoining a public street in which no water main has been previously installed desires to construct said water main at the owner's own expense, the owner may do so, after making proper application to the City and receiving a permit to install such a water main, in accordance with the following:

1. **City Supervision.** The installation of such a water main by a landowner at the owner's own expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.

2. **Surety Bond.** When making application to the City for a permit to install such a water main, the applicant shall post with the City a surety bond in an amount to be set by the council and made a matter of record in the minutes of said Council which shall be an amount equal to not less than One Hundred Ten (110%) percent of the total estimated cost of such installation for the full distance from the termination point of the presently existing water main to the point where the farthest boundary of the applicant's land abuts the public street, and which bond shall guarantee the installation of the water main in as short a time as reasonably possible, and shall further indemnify the City for the cost of completing the said project in the event the applicant fails to complete the same within a reasonable time, and shall indemnify the City for all damages to public property incurred in such installation, and shall further hold the City harmless for any and all other damages arising from the installation of the said water main.

3. **Ownership of Water Main.** After the said water main has been installed, the same shall become the property of the City.

4. **Cost Approval.** For purposes of determining connection charges and reimbursement under Sections 6 and 7 below, costs incurred by the owner shall be certified to the City and only so much of said costs as are approved by the City shall be used in determining connection charges and reimbursement as provided hereafter.

SECTION 6. Connection charge. Following the installation of an extension to the water system under the provisions of this chapter there shall be paid to the City a connection charge in an amount equal to one-half (1/2) the lineal construction cost for the full width of any lot, tract or parcel of ground to be served by a connection to such water main. Such connection charge shall be paid to the City prior to making any connection to said water main.

SECTION 7. Builder reimbursed. Upon receipt by the City of any connection charges under Section 6 above, the City shall deduct and retain an amount equal to one-half (1/2) the lineal construction cost for the full width of the builder's property served by the water main and shall then remit to the builder the balance of such connection charges until said builder has been reimbursed for the expense of such installation less cost attributable to the property of the builder.

SECTION 8. Rights of City. All decisions in connection with the manner of installation of any extension and maintenance thereof shall remain in the exclusive control of the City and such extension shall be the property of the City and no other person shall have any right, title, or interest therein.

SECTION 9. Main extensions outside the City. The above procedure applies only to extensions within the City. Extensions of water mains beyond the corporate limits of the City shall be made only upon approval by the Council. All costs of such extensions, and their maintenance, shall be paid by the applicant for such extensions.

SECTION 10. Developer costs. A developer shall not be reimbursed under the provisions of Section 7.

TITLE III - PUBLIC SERVICES

CHAPTER 35

PUBLIC AND PRIVATE SEWERS

SECTION 1. Definitions. Unless the context specifically indicates otherwise, the meaning of terms used in this ordinance shall be as follows:

1. The term "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.

2. The term "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.

3. The term "building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

4. The term "combined sewer" shall mean a sewer receiving both surface runoff and sewage.

5. The term "garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

6. The term "industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

7. The term "natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

8. The term "person" shall mean any individual, firm, company, association, society, corporation, or group.

9. The term "ph" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

10. The term "properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have 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. The term "public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

12. The term "sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwater is not intentionally admitted.

13. The term "sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

14. The term "sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

15. The term "sewage works" shall mean all facilities for collection, pumping, treating, and disposing of sewage.

16. The term "sewer" shall mean a pipe or conduit for carrying sewage.

17. The term "shall" is mandatory; "may" is permissive.

18. The term "slug" shall mean any discharge of water, sewage, or industrial waste in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

19. The term "storm drain" (sometimes termed "storm sewer" or "tiles") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

20. The term "superintendent" shall mean the Superintendent of Sewage Works of the City of McCallsburg, Iowa, or his authorized deputy, agent, or representative.

21. The term "suspended solids" shall mean solids that either float on the surface of, or are in suspension of water, sewage, or other liquids, and which are removable by laboratory filtering.

22. The term "watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

SECTION 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 of McCallsburg, 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 of McCallsburg, Iowa, 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.

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 all houses, buildings, or properties used for human occupancy, employment recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper sewer in accordance with the provisions of this ordinance within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred (100) feet of the property line.

SECTION 3. Private sewage disposal.

1. Where a public sanitary sewer is not available under the provisions of Section 2, No. 4, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

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. A permit and inspection fee for fifty (\$50) dollars shall be paid to the City at the time the application is filed.

3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. He 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 twenty-four (24) 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 Public Health of the State of Iowa and all county and local requirements. 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 43,560 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

5. At such time as a public sewer becomes available to a property served by a private sewer disposal system, as provided in Section 3, No. 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 rendered safe to the satisfaction of the Superintendent.

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

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

8. When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be rendered safe to the satisfaction of the Superintendent.

SECTION 4. Building sewers and connection.

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.

B. For service to establishments producing industrial waste.

In either case, the owner or his 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. A permit and inspection fee of three hundred eighty (\$380) dollars for a residential or commercial building sewer permit and five hundred seventy (\$570) dollars for an industrial building sewer permit shall be paid to the City at the time the application is filed.

3. All costs 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 or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, 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 buildings only when they are found, on examination and test by the Superintendent, to meet all requirements of this ordinance.

6. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing, and back-filling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF, Manual of Practice, No. 9 shall apply.

7. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. 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 down-spouts, interior and/or 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 building and 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 gas tight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

10. 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 his 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.

SECTION 5. Use of the public sewers.

1. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Sump pumps or foundation tile drains shall not be connected in any manner to the sanitary sewer system.

2. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as tiles 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, tile, or natural outlet.

3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

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 or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, woods, underground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, mild containers, etc., either whole or ground by garbage grinders.

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 his opinion as to the acceptability to 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 waste 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) horse- power (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 picking 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 waters 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 concentration exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of 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 and Federal regulations.

H. Any waters having a PH in excess of (9.5).

I. Materials which exert or cause:

a. Unusual concentrations of inert suspended solids (such as, but not limited to, fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

b. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

c. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

d. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

e. Waters or wastes containing substances which are not amendable or treatment or reduction by the sewage treatment processes employed, or are amendable 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 NO, 4 of this section, 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.

D. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of No. 10 of this section.

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 his 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 his expense, and shall be maintained by him so as to be safe and accessible at all times.

9. All measurements, tests, and analyzes 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 a 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 worked and to determine the existence of hazards to life, limb, and property. (The particular analyzes involved will determine whether a twenty-four (24) hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. normally, but not always, BOD and suspended solids analyzes are obtained from twenty-four (24) hour composites of all outfalls whereas PH's are determined from periodic grab samples).

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

SECTION 6. Protection from damage. No authorized 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.

SECTION 7. Powers and authority of 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 purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance. The Superintendent to his 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, waterways, or facilities for waste treatment.

2. While performing the necessary work on private properties referred to in Section 7, No. 1 above, 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 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 5, No. 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.

SECTION 8. Penalties.

1. Any person found to be violating any provision of this ordinance 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 who shall continue any violation beyond the time limit provided for in Section 8, No. 1 shall upon conviction, be subject to penalties provided for Municipal Infractions as provided for in Chapter 5 of this Code.

TITLE III - PUBLIC SERVICES

CHAPTER 36

SEWER DISTRICTS AND SEWER RENTAL RATES

SECTION 1. Purpose. The purpose of this chapter is to collect from all users of the City Sewer System the cost in whole or in part of constructing, maintaining, and operating the main sewers and sewage treatment plant in proportion to the service provided to each user.

SECTION 2. Sewer district created. One sewer district is hereby created which includes all of the City of McCallsburg, Iowa.

SECTION 3. Sewer system defined. For use within this chapter a "sewer system" is composed of main sewers, sewage pumping stations, treatment and disposal plants, lateral sewers, drainage conduits or channels, and sewer connections in public streets for private property.

SECTION 4. Who shall pay rent. Every person, firm, or corporation whose premises now or hereafter are directly or indirectly served by a connection to the City Sewer System shall pay rent to the City at the rate and in the manner provided in Section 5.

SECTION 5. Rate of rent and manner of payment. The rate of rent shall be based upon the water used for each premises within the sewer district created in Section 2 as determined by the water consumed for which a water bill is payable for the said premises for each month and the said sewer rental per month shall be computed on the water used on the following basis, to-wit:

For the first 1,000 gallons of water used per month, \$10.00; for all over 1,000 gallons of water used, \$2.75 for each 1,000 gallons used pro rated in 100 gallon increments. In addition a \$25.00 per month fee shall be paid by each user having access to the sanitary sewer system.

The rent shall be paid with the water bill at the same time as payment for the water bill is due and under the same conditions 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 then been made, after the connection to the sewer system is made. Late payments will be assessed interest after thirty (30) days at the rate of 18% per annum billable monthly.

SECTION 6. Determination and payment of rent from premises with private water systems. Users whose premises have private water systems shall pay rent in proportion to the water used as determined by the City Clerk 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 5, 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 5.

SECTION 7. Failure to pay. The City shall have a lien upon the property served by the sanitary utility for all delinquent rates and charges. The City Clerk shall certify within ten (10) days of the following dates, to the County Auditor for collection with and in the same manner as property taxes and to establish liens, all rates and charges which are delinquent over thirty (30) days on the first of March, June, September, and December.

TITLE III - PUBLIC SERVICES

CHAPTER 37

SEWER EXTENSIONS

SECTION 1. Purpose. The purpose of this chapter is to provide a means and method for the extension of sewers to serve property not served by an existing sewer line so as to preserve and improve the peace, safety, health, welfare, comfort, and convenience of the residents of the City.

SECTION 2. Builder defined. For the purpose of this chapter, the owner of land who causes a sanitary sewer to be installed under the provisions of this chapter shall be referred to as the "builder," and such term shall mean the heirs, successors, or assigns of such owner.

SECTION 3. Construction by city. An owner of land abutting or adjoining a public street where no sanitary sewer has been installed may make application to the Council for the installation of a sanitary sewer in said street for the purpose of serving said property in accordance with the following:

1. Application and deposit. A written request for such installation, and a sum equal to the cost as estimated by the City of construction from the point where the sanitary sewer is presently installed and terminates to the point where the most distant boundary of the owner's lot abuts the said public street shall be submitted to the Council.

2. Construction. Upon receipt of the tender of the said sum, the City shall construct the said sanitary sewer for the purpose of serving the property of the applicant (builder), as soon as such construction can reasonably be accomplished.

3. Additional Cost. In the event the actual cost to the City of installation of the sanitary sewer is in excess of the estimated costs, the builder agrees to reimburse the City for such actual additional cost within thirty (30) days after the presentation of a bill for such additional cost.

4. Lien Authorized. In the event of the failure of the builder to reimburse the City, as specified in subsection 3 above, the total of the additional cost shall be certified to the County Treasurer as a special assessment lien against the builder's real estate. The landowner's written request for installation of the sanitary sewer shall waive all objections to jurisdiction and rights to notice and consent to the entry of such a special assessment lien against the real estate.

5. Connecting Property. The expense of connecting the property of the builder to the sewer laid in the public street shall be borne by the builder, in addition to the cost of constructing said sewer, but such connection shall be under the supervision of the City.

SECTION 4. Construction by owner. In the event an owner of land abutting or adjoining a public street in which no sewer has been previously installed desires to construct said sewer at

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

1. City Supervision. The installation of such a sewer by a landowner at the owner's own expense shall be under the strict supervision of the City and shall, in all ways, conform to the requirements and specifications of the City.

2. Surety Bond. When making application to the City for a permit to install such a sewer, the applicant shall post with the City a surety bond in an amount to be set by the Council and made a matter of record in the minutes of said Council which shall be an amount to be set by the Council and made a matter of record in the minutes of said Council which shall be an amount equal to not less than 110% of the estimated cost as approved by the Council for construction for the full distance from the termination point of the presently existing sewer to the point where the farthest boundary of the applicant's land abuts the public street and which bond shall guarantee the installation of the sewer in as short a time as reasonably possible, and shall further indemnify the City for the cost of completing the same within a reasonable time, and shall further indemnify the City for the cost of completing the said project in the event the applicant fails to complete the same within a reasonable time, and shall further indemnify the City for all damages to the public street incurred in such installation, and shall further hold the City harmless for any and all other damages arising from the installation of the said sewer.

3. Ownership of Sewer Line. After the said sewer has been installed, the same shall become the property of the City.

SECTION 5. Others required to connect. Following the installation of a sanitary sewer under the provisions of this chapter, owners of land abutting or adjoining a public street in which such sewer has been installed, being persons other than the builder, shall be obliged to connect any sewage generating facilities into said sanitary sewer, as required by Chapter 30.

SECTION 6. Builder reimbursed. Upon receipt by the City of a connection charge in an amount equal to one-half of the actual per foot construction cost of said sewer for the full frontage of each lot so connected, the City shall deduct and retain the sum of one hundred (\$100) dollars and shall remit to the builder the balance of said connection charge. As successive sewage generating facilities are connected to the said sanitary sewer installation, like sums from each connection charge shall be remitted by the City to said builder, until said builder has been reimbursed for the expense of such installation of sewer, less the non-refundable connection charge provided herein.

SECTION 7. Building sewers installed. Each sanitary sewer constructed in a public street or right-of-way, whether constructed by the City or by a private party shall include a stub to each abutting or adjoining lot line of the street or right-of-way on which the sewer is installed. Each party responsible for installing such sewer shall provide the City with an accurate map showing the location of each of such stubs within thirty (30) days of the completion of the installations.

SECTION 8. Service Line Abandonment. Whenever an individual service line is permanently abandoned, the service line shall be physically disconnected as described below. The service shall be considered to be abandoned when a permit is issued for a new or replacement service for that property. Service shall also be considered to be abandoned when a service has been inactive or unused for six months, unless an extension is granted in writing by the City. The service line shall be physically disconnected within 30 days after abandonment. The sewer line shall be disconnected at the sewer line or at the curb line by using an approved plug as directed by the City. Disconnection, and restoration, shall be paid for by the property owner.

TITLE III - PUBLIC SERVICES

CHAPTER 38

SOLID WASTE CONTROL

SECTION 1. Purpose. The purpose of this chapter in this Code of Ordinances pertaining to solid waste control is to provide for the sanitary storage, collection, and disposal of solid wastes and, thereby, to protect the citizens of the City from such hazards to their health, safety, and welfare as may result from the uncontrolled disposal of solid wastes.

SECTION 2. Definitions. For use in this chapter the following terms are defined.

1. The term "approved incinerator" shall mean 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 provided by the Environmental Protection Commission.

2. The term "back yard burning" shall mean the disposal of residential waste by open burning on the premises of the property where such waste is generated.

3. The term "discard" shall mean to place, cause to be placed, throw, deposit, or drop.

4. The term "Executive Director" shall mean the Executive Director of the State Department of Natural Resources or any designee.

5. The term "garbage" shall mean all solid and semi-solid, putrescible animal and vegetable wastes 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 shall include all such substances from all public and private establishments and from all residences.

6. The term "landscape waste" shall mean any vegetable or plant wastes except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.

7. The term "litter" shall mean any garbage, rubbish, trash, refuse, waste materials or debris.

8. The term "open burning" shall mean any burning of combustible materials where the products of consumption are emitted into the open air without passing through a chimney or stack.

9. The term "open dumping" shall mean the depositing of solid wastes on the surface of the ground or into a body or stream of water.

10. The term "owner" shall mean 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. The term "refuse" shall mean putrescible and non-putrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleaning, market and industrial solid wastes and sewage treatment wastes in dry or semi-solid form.

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

13. The term "rubbish" shall mean non-putrescible solid waste consisting of combustible and non-combustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass bedding, crockery or litter of any kind.

14. The term "rubble" shall mean stone, brick, or similar inorganic material.

15. The term "salvage operation" shall mean any business, industry, or trade engaged wholly or in part in salvaging or reclaiming any product or material, including, but not limited to, chemicals, drums, metals, motor vehicles, or shipping containers.

16. The term "sanitary disposal" shall mean a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

17. The term "sanitary disposal project" shall mean 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.

18. The term "solid waste" shall mean garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

19. The term "toxic and hazardous wastes" shall mean waste materials, including but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, flammable or explosive materials and similar harmful wastes which require special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

20. The term "yard wastes" shall mean organic debris (e.g. grass, clippings, leaves, and tree and brush trimmings, flowers, etc.) which is produced as part of yard and garden deployment and maintenance.

SECTION 3. 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.

SECTION 4. 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.

SECTION 5. Open burning restricted. No person shall allow, cause, or permit open burning of combustible materials, except that the following shall be permitted:

1. Disaster Rubbish. The opening burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

2. Diseased Trees. The open burning of diseased trees. However, when the burning of diseased trees causes a nuisance, appropriate action may be taken to require relocation of the burning operation. Rubber tires shall not be used to ignite diseased trees.

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.

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.

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.

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in firefighting methods, provided that the Executive Director receives notice in writing at least one week before such action commences.

7. Variance. Any person wishing to conduct open burning of materials not exempted herein may make application for a variance to the Executive Director.

SECTION 6. 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.

SECTION 7. Open dumping prohibited. No person shall dump, deposit, or permit the open dumping or depositing of any solid waste except rubble at any place other than a sanitary disposal project approved by the Executive Director.

SECTION 8. Toxic and hazardous wastes. The collection, storage, and disposal of toxic and hazardous wastes shall be subject to the following:

1. Labeling. All containers used for the storage, collection, or transportation of toxic or hazardous wastes 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 wastes 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 wastes. Such materials shall be transported by the owner, responsible person or agent, to a place of safe deposit or disposal as prescribed by the Executive Director.

SECTION 9. 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 wastes 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 premises where an excessive amount of refuse accumulates and where its storage in portable containers are 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 shall have 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. Non-confirming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

SECTION 10. Storage of yard wastes. All yard wastes shall be stored in containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises, or upon adjacent public rights-of-way. Tree limbs less than four (4) inches in diameter and brush shall be securely tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter when not placed in storage containers. The weight of any individual bundle or container shall not exceed seventy-five (75) pounds.

SECTION 11. 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.

SECTION 12. 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 authorized waste collection service.

3. Unlawful Disposal. Dispose of refuse at any facility or location which is not an approved sanitary disposal project.

4. Unlawful Collection. Engage in the business of collecting, transporting, processing, or disposing of refuse within the City without a contract therefore with the City or a valid permit therefore.

5. Incinerators. Burn rubbish or garbage except in approved incinerators so maintained and operated as to prevent the emission of the objectionable odors or particulate matter.

TITLE III - PUBLIC SERVICES

CHAPTER 39

COLLECTION AND TRANSPORTATION

SECTION 1. Definitions. For use in this chapter the following terms are defined.

1. The term "collections" shall mean any person authorized by this chapter to gather solid waste from public and private places.

2. The term "commercial premises" shall mean any business, whether retail or wholesale, industrial, manufacturing, professional banking, or any business offering service alone.

3. The term "dwelling unit" shall mean any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used for living, sleeping, cooking, and eating.

4. The term "institutional premises" shall mean any school, hospital, nursing home, or care facility where food is prepared.

5. The term "multiple-family dwelling" shall mean a structure containing more than one dwelling unit.

6. The term "property served" shall mean any property which is being used or occupied and is eligible to receive solid waste collection and disposal service as provided herein.

7. The term "residential premises" shall mean a single-family dwelling, multiple-family dwelling, each trailer lot in any authorized trailer park, garden type apartment and row type housing units. 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.

8. The term "single-family dwelling" shall mean a structure containing one dwelling unit only.

SECTION 2. Collection service. The City shall provide for the collection of all solid waste except bulky rubbish as provided in Section 8 of the City Code.

SECTION 3. 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.

SECTION 4. 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.

SECTION 5. Frequency of collection. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.

SECTION 6. Street or alley collection. Collections may be made either from streets or alleys, where existing, at the discretion of the collection personnel.

SECTION 7. Location of containers. Containers for the storage of solid waste awaiting collection shall be placed out-of-doors at some easily accessible place by the owner or occupant of the premises served.

SECTION 8. 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.

SECTION 9. SECTION DELETED.

SECTION 10. Yard Wastes, limbs, and brush. To dispose of properly, contact City Hall.

SECTION 11. 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.

SECTION 12. Collection fees. The collection and disposal of solid waste as provided by this chapter is declared to be a benefit to the property served or eligible to be served and there shall be levied and collected fees therefore in accordance with the following:

1. Schedule of Fees. The fee for solid waste collection and disposal service used, or available shall be:

- A. For each residential premises - as determined by committee.
- B. For each dwelling unit of a multi-family dwelling - as determined by committee.
- C. For each commercial premises - As determined by committee.
- D. For each institutional premises - As determined by committee.

2. Payment of Bills. All fees shall be due and payable under the same terms and conditions provided for payment for water service except that the provisions of subsection 3 hereof shall be used to enforce collection of delinquent fees.

3. Lien for Non-payment. Fees remaining unpaid and delinquent for a period of ninety (90) days shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

TITLE III - PUBLIC SERVICES

CHAPTER 40

SOLID WASTE DISPOSAL

SECTION 1. Definitions. For use in this chapter the following terms are defined:

1. The term "operator" shall mean the person or agency authorized to conduct disposal operations at a public sanitary disposal project or licensed private sanitary disposal project.

2. The term "processing facility" shall mean the site and equipment for the preliminary and incomplete disposal of solid waste, including but not limited to transfer, open burning, incomplete land disposal, incineration, composting, reduction, shredding, and compression.

3. The term "resident" shall mean in addition to any person residing in the City, any person occupying or using any commercial, industrial, or institutional premises within the City.

4. The term "scavenging" shall mean the uncontrolled removal of materials from the unloading or working area of a sanitary disposal project.

5. The term "site" shall mean any location, place, or tract of land used for collection, storage, conversion, utilization, incineration, or burial of solid wastes.

SECTION 2. Sanitary disposal required. All solid wastes generated or produced within the City shall be disposed of at a sanitary disposal project designated by the City and approved by the Executive Director.

SECTION 3. Open dumping prohibited. No person shall cause, allow, or permit the disposal of solid wastes upon any place within the jurisdiction of the City owned or occupied by such person unless such place has been designated by the City as a licensed sanitary disposal project, public sanitary disposal project or an approved processing facility.

SECTION 4. Exceptions. Nothing in this chapter shall prohibit the filling, leveling, or grading of land with earth, sand, dirt, stone, brick, gravel, rock, rubble, or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

SECTION 5. Toxic and hazardous wastes. Toxic or hazardous wastes shall be disposed of only upon receipt of and in accordance with explicit instructions obtained from the Executive Director.

SECTION 6. Radioactive materials. Materials that are radioactive shall not be disposed of in a sanitary disposal project. Luminous timepieces are exempt.

SECTION 7. Sanitary disposal project designated. Pursuant to the terms of an agreement entered into between the City and the City of Ames, Iowa, the disposal sites now and hereafter operated by the City of Ames, Iowa, will be made available as public disposal sites for all solid wastes collected within the corporate limits of the City upon the conditions specified in said agreement.

SECTION 8. Materials excluded from disposal units. At the discretion of the City of Ames, Iowa, certain materials may be excluded from those solid wastes which may be deposited at any sanitary landfill site. These excluded materials may include junk automobile bodies and similar bulky objects, which may require special processing prior to disposal; trees and tree limbs, burning materials or materials containing hot or live coals; hazardous materials; and other materials which the City of Ames, or the contractor, deems necessary to exclude.

SECTION 9. Private sanitary disposal project. No person may establish and operate a private sanitary disposal project within the City.

SECTION 10. Separation of yard waste required. All yard waste shall be separated by the owner or occupant from all other garbage and refuse accumulated on the premises and shall be composed on the premises, or City Hall contacted for disposal instructions.

TITLE III - PUBLIC SERVICES

CHAPTER 41

TAPPING OF TILE DRAINS

SECTION 1. Purpose. The purpose of this article is to regulate the tapping of tile drains owned by the City of McCallsburg.

SECTION 2. Permit. Any person or persons wishing to join or tap any main tile drain or branch of the main tile drain owned or controlled by the City of McCallsburg, Iowa, must first secure a permit from the City Council.

SECTION 3. Usage. All drain tile owned or controlled by the City of McCallsburg must not be used for any other purpose than for drainage.

SECTION 4. Installation. Any person or persons wanting to lay tile on any street or alley, or any other land owned or controlled by the City of McCallsburg must first obtain a permit from the City Council to do so, and must not close the ditch until approval has been given by the City Council or an unauthorized individual of the City. The back filling of the ditch shall be to the satisfaction of the City Council.

SECTION 5. Penalty. A violation of the provisions of this chapter are a Municipal Infraction punishable as provided for in Chapter 5 of this Code.

TITLE IV - REGULATION OF BUSINESS

CHAPTER 44

REGULATION OF BEER AND LIQUOR

SECTION 1. Purpose. The purpose of this article is to provide a defined area where the sale and/or consumption of beer and/or liquor shall be conducted, to ensure the protection of the safety, morals, and general welfare of this community.

SECTION 2. Definitions. For use in this ordinance the following terms are defined:

1. The term "business district" shall mean all areas located between 6th and 3rd Streets on Main Street, and on streets 4th, 5th, and 6th between Latrobe and Dubois Streets of this community.

2. The term "establishment" shall mean any club, commercial business, grocery store, hotel or motel, or other premises that is engaged in the sale and/or consumption of beer and/or liquor.

3. All Other. Words and phrases used in this chapter, unless the context otherwise requires, shall have the same meaning in and definition ascribed or attributed to them in the Iowa Beer and Liquor Control Act.

SECTION 3. Location. All establishments engaged in the sale and/or consumption of beer and/or liquor shall be located within the business district of the City of McCallsburg.

SECTION 4. Permits. Class "B" and "C" liquor licenses and Class "B" beer permits shall not be issued to any establishment unless the establishment is located within the business district.

SECTION 5. Investigation of applicant. Upon the filing of an application with the City Council for an original liquor control license or retail beer permit, or renewal thereof, the Mayor shall:

1. Conduct an investigation as to the truth of the statements made in the application.

2. Inspect the premises for which the license or permit is requested in the application for compliance with the Iowa Beer and Liquor Control Act, this chapter, and all other ordinances of the City.

3. Submit to the City Council a report as to such investigation and inspection and stating a recommendation as to the approval of such application.

SECTION 6. Action by Council. The Council shall either approve or disapprove an application. Action taken by the Council shall be so endorsed on the application and thereafter the

application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

SECTION 7. License and permit fees. Fees shall be submitted with applications in accordance with State law or regulation.

SECTION 8. Expiration of license or permit. All liquor control licenses, wine permits, and beer permits, other than seasonal and five or fourteen-day licenses or permits, unless sooner suspended or revoked, shall expire one year from the date of issuance. Sixty (60) days' notice of such expiration must be given in writing by the Administrator.

SECTION 9. Transfers. The 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 such transfer will not result in the violation of any law or ordinance. An applicant for such a transfer shall file with the application a transfer fee in the amount of Fifteen Dollars (\$15).

SECTION 10. Application for renewal. Upon receipt of an application for the renewal of a liquor license, wine permit, or beer permit, it shall be forwarded to the Mayor, who shall conduct an investigation and shall submit a report as to the truth of the facts contained in the application and a recommendation to the Council as to the approval of the renewal of the license or permit.

SECTION 11. Prohibited sales and acts. A person or club holding a liquor license or wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Intoxicated Persons. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

2. Hours of Operation. Sell or dispense any alcoholic beverage, wine, or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of two o'clock (2:00) A.M. and six o'clock (6:00) A.M. on a weekday, and between the hours of two o'clock (2:00) A.M. on Sunday and six o'clock (6:00) A.M. on the following Monday, however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer, or wine on Sunday may sell or dispense alcoholic liquor, beer, or wine between the hours of eight o'clock (8:00) A.M. on Sunday and two o'clock (2:00) A.M. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine, or beer for consumption on the premises between the hours of eight o'clock (8:00) A.M. on Sunday and two o'clock (2:00) A.M. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of eight o'clock (8:00) A.M. on Sunday and two o'clock (2:00) A.M. on the following Monday when that Sunday is the day before New Year's Day.

3. Credit Sales. Sell alcoholic beverages, wine, or beer to any person on credit, except with bona fide credit card. This provision does not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

4. Employment of Minors. Employ a person under eighteen years of age in the sale of serving of alcoholic liquor, wine, or beer for consumption on the premises where sold.

5. Selling of Alcoholic Beverage to Minors. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or having reasonable cause to believe the person to be under legal age, or permit any person knowing or having reasonable cause to believe the person to be under legal age, to consume any alcoholic beverage, wine, or beer.

6. Mixing of Alcoholic Beverage. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine, or any other beverage in or about the permittee's place of business.

7. Soliciting and Disorderly Conduct. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

8. Brand Signs Prohibited. Permit any signs or other matter advertising any brand of beer or wine to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell alcoholic liquor, beer, or wine at retail.

9. Public Indecent Exposure Prohibited. Allow or permit any of the following:

A. The actual or simulated public performance of any sex act upon or in such licensed premises.

B. The exposure of the genitals or buttocks or female breast of any person who acts as a waiter or waitress.

C. The exposure of the genitals or female breast nipple of any person who acts as an entertainer, whether or not the owner of the licensed premises in which the activity is performed employs or pays any compensation to such person to perform such activity.

D. Any person to remain in or upon the licensed premises who exposes to public view his or her genitals, pubic hair, or anus.

E. The displaying of moving pictures, films, or pictures depicting any sex act or the display of the pubic hair, anus, or genitals upon or in such licensed premises.

Provided that the provisions of this subsection shall not apply to a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances

and any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances.

10. Minors Prohibited. Permit or allow person under legal age to remain upon licensed premises unless over fifty percent (50%) of the dollar volume of the business establishment comes from the sale and serving of prepared foods. This provision shall not apply to holders of a Class "C" beer permit only.

SECTION 12. Optional suspension or revocation. Following a written notice and hearing, as provided by this chapter, a liquor license, wine permit or beer permit may be suspended by the Council for a period up to one year for violations of the Code of Ordinances, or suspended for a period up to one year or revoked by the Council for any of the following causes:

1. Misrepresentation. Misrepresentation of any material fact in the application for the license or permit.

2. Violations. Violation of any of the provisions of the Iowa Alcoholic Beverage Control Act.

3. Change in Ownership. Any change in the ownership or interest in the business operated under a Class "A", Class "B", or Class "C" liquor control license, or any wine or beer permit, which change was not previously reported to and approved by the City and the Division.

4. Original Disqualifications. An event which would have resulted in disqualification from receiving the license or permit when originally issued.

5. Sale or Transfer. Any sale, hypothecation, or transfer of the license or permit.

6. Payment of Taxes. The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under the State law.

7. Commission of Prohibited Sale or Act. The conviction of any liquor control licensee, wine permittee, or beer permittee for a violation of any of the provisions of Section 123.49 of the Code of Iowa (subject to the provisions of subsection 3 of Section 123.50), or for a violation of any of the provisions of Section 11, subject to Section 13, is grounds for the suspension or revocation of the license or permit by the Division or the City.

SECTION 13. Mandatory suspension or revocation. A license or permit shall be suspended or revoked by the City Council in accordance with the following:

1. Sale to Minors or "Spiking". If any licensee, wine permittee, beer permittee, or employee of a licensee or permittee is convicted of a violation of Section 10, subsection 5 of this Code of Ordinances, or if a retail wine or beer permittee is convicted of a violation of subsection

6 of that section, the City shall, in addition to the other penalties fixed for such violations by this chapter, assess a penalty as follows:

A. Upon a first conviction, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of fourteen (14) days.

However, if the conviction is for a violation which occurred on or after January 1, 1988, the violator's liquor control license or wine or beer permit shall not be suspended, but the violator shall be assessed a civil penalty in the amount of Three Hundred Dollars (\$300). Failure to pay the civil penalty will result in automatic suspension of the license or permit for a period of fourteen (14) days.

B. Upon a second conviction within a period of two (2) years, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of thirty (30) days.

C. Upon a third conviction within a period of five (5) years, the violator's liquor control license, wine permit, or beer permit shall be suspended for a period of sixty (60) days.

D. Upon a fourth conviction within a period of five (5) years, the violator's liquor control license, wine permit, or beer permit shall be revoked.

2. Gambling, Solicitation, Disorderly Conduct, Use of Containers. If any liquor control licensee is convicted of any violation of Code of Iowa, Section 123.49(2)("a", "d", or "e"), or any wine or beer permittee is convicted of a violation of Code of Iowa, Section 123.49(2)("a" or "e"), the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the Division.

SECTION 14. Hearing on suspension or revocation. The Council shall conduct a hearing on each suspension or revocation in the following manner:

1. Notice. The permit holder, and the surety on the permit holder's bond, shall be served with written notice containing a copy of the complaint against the permit holder, the ordinance provisions or State statutes allegedly violated, and the date, time, and place for hearing on the matter.

2. Hearing. The Council shall conduct a hearing, at which both the permit holder and complainants shall be allowed to be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or authorized representative fail to appear without good cause, the Council may proceed to a determination of the complaint.

3. Rights of Permit Holder. The permit holder shall have the right to be represented by counsel, to testify and present witnesses in the permit holder's own behalf, and to cross-examine adverse witnesses.

4. Evidence. The Council shall admit only reliable and substantial evidence into the revocation or suspension proceeding, and shall give all admitted evidence its natural probative value.

5. Criminal Charges. In the event that criminal charges have been brought against the permit holder on the same facts and circumstances as are the basis for the revocation or suspension complaint, the Council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.

6. Record and Determination. The Council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this Code of Ordinances or State law.

SECTION 15. Division Notified. When the Council revokes or suspends a liquor license, wine permit, or beer permit, the Division shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same.

SECTION 16. Appeal to State and Court. The right of appeal to the Division hearing board shall be afforded an applicant whose application has been disapproved, or a liquor control licensee, wine permittee, or beer permittee whose license or permit has been suspended or revoked. Any applicant, licensee, or permittee who feels aggrieved by a decision of the Administrator or City disapproving, suspending, or revoking issuance of a liquor control license, wine permit, or beer permit may, provided the person has exercised the right of appeal to the hearing board as provided by State law, appeal from said decision in accordance with the provisions of the Iowa Administrative Procedure Act or may file a petition for judicial review in the District Court of the County. The City May seek judicial review of a decision of the hearing board in accordance with the terms of the Iowa Administrative Procedure Act within thirty days.

SECTION 17. Effect of Revocation. Any liquor control licensee, wine permittee, or beer permittee whose license or permit is revoked under the Iowa Alcoholic and Beverage Control Act shall not thereafter be permitted to hold a liquor control license, wine permit, or beer permit in the State for a period of two (2) years from the date of revocation.

A spouse or business associate holding ten percent (10%) or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license, wine permit, or beer permit, and no liquor control license, wine permit, or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of revocation. If a license or permit is revoked, the premises which have been covered by the license or permit shall not be re-licensed for one year.

SECTION 18. Penalty. Any person who violates any provision of this chapter or the Iowa Beer and Liquor Control Act or who makes a false statement concerning any material fact in submitting an application for a permit or license is guilty of Municipal Infractions punishable as provided for in Chapter 5 of this Code.

SECTION 19. Regulation of Beer or Alcohol in Public Parks. The possession, use, and consumption of beer or alcohol and the furnishings of beer to other persons within any public park owned by the City of McCallsburg, Iowa, located within or without the corporate limits of the City, shall be governed by the following regulations:

1. It shall be unlawful for any person to possess, use or consume beer or alcohol or to furnish beer or alcohol to another person except in connection with a private social activity and if otherwise authorized by the laws of the State of Iowa.

2. It shall be unlawful for any person to possess, use or consume beer or alcohol or to furnish beer or alcohol to another person in connection with any activity in which either the general public is permitted to attend or such activity is advertised to the general public.

TITLE IV - REGULATION OF BUSINESS

CHAPTER 45

CIGARETTE PERMITS

SECTION 1. Definitions. For use in this chapter the following terms are defined:

1. The term "cigarette" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape, and irrespective of being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. It shall further include cigarettos provided their weight does not exceed three (3) pounds per thousand. However, this definition shall not be construed to include cigars.

2. The term "retailer" shall mean every individual, firm, corporation, or other association that sells, distributes or offers for sale for consumption or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales.

3. The term "place of business" shall mean any building or structure in which cigarettes are sold, or are kept for the purpose of sale, by retailer.

4. The term "tobacco products" shall include the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut, and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not include cigarettes.

SECTION 2. Permit required. No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of McCallsburg, Iowa, without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit may be issued to a minor.

SECTION 3. Issuance. The council shall issue or renew a permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a retailer who is not a minor has filed with the City Clerk:

1. A completed application on forms provided by the State Department of Revenue and accompanied by the fee provided in Section 5, and

2. A bond in the amount of five hundred (\$500) dollars on forms provided by the State Department of Revenue and surety approved by the Council. The bond shall be in favor of the state and for the benefit of the City of McCallsburg, Iowa, conditioned upon payment of any taxes,

damages, fines, penalties, and costs adjudged against the permit holder for violation of any of the provisions of Chapter 98, Code of Iowa.

The Council shall certify its action in issuing a permit to the State Department of Revenue.

SECTION 4. Expiration. Permits expire on June 30 of each year.

SECTION 5. Fees. The fee for permits issued or renewed in July, August, or September is \$75. The fee for permits issued in October, November, or December is \$56.25; in January, February, or March, \$37.50; in April, May, or June, \$18.75.

SECTION 6. Refunds. A retailer may surrender an unrevoked permit in July, August, or September for a refund of \$56.25; in October, November, or December for \$37.50 or in January, February, or March for \$18.75.

SECTION 7. Revocation. The Council, after notice and hearing, shall revoke a permit if it finds that retailer has substantially violated the provisions of this chapter or Chapter 98, Code of Iowa, 1993, or if grounds exist that would be sufficient for refusal to issue such a permit. The City Clerk shall give five (5) days written notice to the retailer by mailing a copy of the notice by certified mail to the place of business as it appears on his or her application for a permit. the notice shall state the reason for the contemplated revocation and the time and place at which he or she may appear and be heard. The hearing shall be held at the regular meeting place of the Council.

Upon revocation, no new permit shall be issued to the retailer or for the place of business for one year from the date of revocation unless good cause to the contrary is shown by the Council.

SECTION 8. Permit suspension and revocation. If a retailer or employee of a retailer violates the provisions of Section 7, the Council shall, after written notice and hearing, and in addition to the standard penalty, assess the following:

1. For a first violation, the violator shall be assessed a civil penalty in the amount of three hundred dollars (\$300). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two (2) years, the violator's permit shall be suspended for a period of thirty (30) days.

3. For a third violation within a period of five (5) years, the violator's permit shall be suspended for a period of sixty (60) days.

4. For a fourth violation within a period of five (5) years, the violator's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

SECTION 8. Permits not transferable. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit changes his or her place of business, the Council, if it decides to issue a new permit to him or her, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

SECTION 9. Display. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

SECTION 10. Penalty. Any violating any of the provisions of this chapter shall, upon conviction, be a Municipal Infraction punishable as provided for in Chapter 5 of this Code.

TITLE IV - REGULATION OF BUSINESS

CHAPTER 46

PEDDLERS, SOLICITORS, AND TRANSIENT MERCHANTS

SECTION 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.

SECTION 2. Definitions. For use in this chapter the following terms are defined:

1. The term "special event" shall mean an event that the City Council has specified as a citywide special event or celebration, such as a marathon, 5k or 10k run, walkathon, bike race, block party, street fair, charitable event, ceremony, grand opening, closure for a political purpose, or other events where the City deems it necessary to establish a vendor permit requirement for the health and safety of the McCallsburg citizens.

2. The term "peddler" shall mean any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.

3. The term "RAGBRAI" shall mean (Des Moines) Register's Annual Great Bike Ride Across Iowa. RAGBRAI is a one-day town event occurring when McCallsburg is chosen to be a pass-through or overnight town on the RAGBRAI route. RAGBRAI-specific vendor, or merchant, permits shall be required for RAGBRAI events.

4. The term "solicitor" shall mean any person who solicits or attempts to solicit from house-to-house or upon the public street an order for goods, subscriptions, or merchandise to be delivered at a future date.

5. The term "transient merchant" shall mean any person, firm, or corporation who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases, or occupies any building or structure whatsoever. Temporary association with a local merchant, dealer, trader, or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer shall not exempt any person, firm, or corporation from being considered a transient merchant.

SECTION 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.

SECTION 4. License exemptions. The following are excluded from the application of this chapter:

1. Newspaper. 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 Colo-Nesco Community School District conducting projects sponsored by organizations recognized by the school.
5. Milk Delivery. Milk delivery men who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purpose of selling products for resale or institutional use.
7. Schwan's delivery person.

SECTION 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 Section 6 through Section 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 for his or her efforts 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.

SECTION 6. Application for license. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address, and business address, if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license.

SECTION 7. License fees. The following license fees shall be paid to the Clerk prior to the issuance of any license.

1. Solicitors. In addition to the application fee for each person actually soliciting (principal or agent), a fee for the principal of fifty dollars (\$50) per year.
2. Peddlers or Transient Merchants. A fee of \$50 is good for one year license.

SECTION 8. 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.

SECTION 9. License issued. If the Clerk find 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.

SECTION 10. 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 9 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.

SECTION 11. 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.

SECTION 12. 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.

SECTION 13. Revocation of license. After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health, or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order, or morals.

SECTION 14. 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.

SECTION 15. Hearing. The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

SECTION 16. Records and determination. The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

SECTION 17. Appeal. If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify, or affirm decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

SECTION 18. 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.

SECTION 19. Special event and RAGBRAI vendor permits. No person, club, group, organization, corporation or entity of any kind shall provide or sell food or non-food products to the public during RAGBRAI unless said person or entity shall first obtain a McCallsburg special vendor permit from the City.

1. Special event/RAGBRAI vendor permit food booth fees. The fee for McCallsburg RAGBRAI food vendor permit shall be \$300.00 for a 10' x 10' booth space and a \$350 for 20' x 10' booth space.

2. Special event/RAGBRAI vendor permit non-food booth fees. The fee for a McCallsburg non-food vendor permit shall be \$200.00 for a 10' x 10' booth space and a \$250 for 20' x 10' booth space.

3. A vendor who has been granted a McCallsburg special event/RAGBRAI vendor permit shall locate its temporary sale facility at a location to be determined by the official McCallsburg Special event/RAGBRAI committee.

4. Health regulations. Any person or entity issued a McCallsburg special event/RAGBRAI vendor permit pursuant to this Chapter shall comply with the Iowa Department of Health and Story County Department of Health rules and regulations pertaining to the sale and dispensing of food for consumption on its premises.

5. Liability insurance. All McCallsburg Special event/RAGBRAI vendor permittees must have current liability insurance coverage.

6. Glass containers. To promote safety during special events/RAGBRAI, all beverages sold in McCallsburg Iowa, by McCallsburg special event/RAGBRAI vendor permittees shall be sold in non-glass containers only. This requirement shall also apply to any existing business,

restaurant, service station, grocery store or other establishment selling beverages on its premises in an outdoor setting open to the public.

7. Nuisance. The sale of food or the erection of a temporary facility for the sale of food or other non-food merchandise without a McCallsburg special event/RAGBRAI vendor permit is in violation of the provisions of this Chapter shall be considered a nuisance, as defined by Section 8.08 of the City Code of Ordinances. If this type of nuisance is determined to exist, an emergency abatement procedure pursuant to Subsection 8.08.080 of the City Code is hereby authorized and may be executed by any peace officer or those acting at their direction by dismantling and removing the nuisance without notice.

8. Penalties. Selling or supplying food or merchandise to any person without a McCallsburg special event/RAGBRAI vendor permit shall be a simple misdemeanor punishable by a maximum fine of \$500.00 and/or a maximum of thirty (30) days in jail. Furthermore, any violation of this Chapter shall constitute a municipal infraction, as set forth in Chapter 8 of the City Code of Ordinances, and, therefore, any civil penalties may likewise be assessed and enforced as set forth.

9. Street Closings. Without prior Council approval regarding the blocking of any city streets, any police officer, or Council member, may place barricades or road blocks in any City street, alley, driveway or roadway to redirect vehicular traffic in order to enhance the proper and safe flow of bicycle, vehicular, and foot traffic within the City limits of McCallsburg.

10. Repealer. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

TITLE IV - REGULATION OF BUSINESS

CHAPTER 47

BUILDING AND BUILDING MOVING PERMITS

SECTION 1. Building construction. That no building of any kind or character, or addition to any buildings, shall be constructed within the corporate limits of the City of McCallsburg, Story County, Iowa, until a permit has been obtained from the City Council of McCallsburg, Story County, Iowa, authorizing the same.

SECTION 2. Building moved. That no building or parts of buildings of any kind or character may be moved into the City of McCallsburg, Iowa, or from one location with the City to another until a permit has been obtained from the Planning & Zoning Committee of McCallsburg, Iowa, authorizing the same.

SECTION 3. Permit requirement. That permits as required by Sections 1 and 2 hereof shall be required regardless of the use to which said building or buildings shall be put. The permit shall be in writing on file with the City Clerk. Included in the permit shall be the applicant's full name and address, along with the location and a brief description of the proposed project.

SECTION 4. Authority to deny. That the Planning & Zoning Committee of McCallsburg, Iowa, shall have the power and authority to deny permits for new buildings, the moving of buildings already constructed, into the corporate limits of the City, or moving of a building from one location to another with the City, if in the judgment and by a majority vote, the Council finds that the granting of such a permit would not be for the welfare and best interest of the City and its people.

SECTION 5. Decision. If Board of Adjustment is unable to reach a decision, turn over to the Council.

SECTION 6. Insurance required. Each applicant for a moving permit shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$100,000 per person; \$300,000 per accident.
2. Property Damage - \$50,000 per accident.

SECTION 7. Time limit--House-movers. No house-mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

SECTION 8. Time limit--Construction. All construction under a building permit shall be commenced within 60 days of receiving the permit and be completed within 12 months of issuing the permit.

SECTION 9. Removal by City. In the event any building or similar structure is found to be in violation of Section 7 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

SECTION 10. Protect pavement. It shall be unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved shall be at least one inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building the estimate of the City as to such weight shall be final.

SECTION 11. Electric wires. The holder of any permit to move a building shall see that all telephone, telegraph, and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same. The holder of the permit for moving a building shall give twenty-four (24) hours notice to the owner of any telephone, telegraph, or electric wires to remove such wires and the owner of such wires may either remove or direct the removal and replacing of such wires, and the holder of the permit shall pay the reasonable costs thereof.

SECTION 12. Fees. Building moving permits, larger than 144 square feet floor space - \$100.00 fee. Building moving permits, up to 144 square feet floor space (including ready-made storage sheds) - \$50.00. The mover shall be responsible for the cost of all repairs or actual expenses the City incurs for the benefit of the mover.

TITLE IV - REGULATION OF BUSINESS

CHAPTER 48

JUNK DEALERS

SECTION 1. Purpose. The purpose of this chapter is to assure that in the conduct of the activity licensed and regulated by this chapter, the public health, safety, and welfare will be protected and maintained.

SECTION 2. Definitions. For use in this chapter the following terms are defined:

1. The term "junk dealer" shall mean any person engaged in collecting, storing, buying, or selling junk. "Junk" means articles or materials that, because of age, deterioration, or use, have lost their original utility or desirability, but that by alteration, restoration, or salvage may furnish any item or items of value.

2. The term "person" shall mean any individual, firm, corporation, or association of any kind.

SECTION 3. License required. It shall be unlawful for any person to engage in any activity regulated by this chapter without a valid license from the City of McCallsburg, Iowa.

SECTION 4. Application for license. Application for any license under this chapter shall be made in writing. One's application shall be filed with the City Clerk and shall include:

1. The applicant's full name and address, the address and legal description of his or her local business establishment, and the nature of his or her business.

2. If the applicant is not the owner of the place where the business is to be conducted, the name and address of the owner.

3. If the applicant is a corporation or other association, it shall also list the names and addresses of its principal officers.

4. The attachment of a receipt from the City, showing payment of all fees.

SECTION 5. Fee payment. All fees required by this chapter shall be paid to the City Clerk who shall give the applicant a written receipt showing the sum received and the time of receipt.

SECTION 6. Issuance of a license. If the City Council finds that all of the prescribed conditions for the issuance of a license have been satisfied, that no grounds for revocation under Section 9 of this chapter exists, and that the special requirements of Section 16 of this chapter have been complied with, the license shall be issued immediately to the applicant. The City Council

must make a determination whether to issue the license within thirty (30) days from the date a completed application is submitted. If the City Council refuses to act within this thirty (30) day period, the applicant shall have a right to a hearing before the Council at its next regular meeting on whether the license should be issued. The decision to issue a license shall be made by a roll call vote of the City Council.

SECTION 7. Fees and duration or license.

1. An applicant may apply for an annual license. All licenses shall terminate on June 30 of each year, unless otherwise terminated.

2. The application fee for the annual license shall be:

A. Junk Dealers - Two hundred dollars (\$200)

SECTION 8. Power to inspect and investigate. Upon receipt of an application for a license, the City Clerk shall forward it immediately to the City Mayor, who shall conduct an investigation and submit a written report concerning the truth of the facts stated in the application and a recommendation concerning whether or not a license should be issued. The Mayor shall notify the County Health Officer immediately, and he or she shall inspect the premises immediately to determine whether it meets the standards of the applicable municipal ordinances and state statutes. This official shall submit written reports of the results of his or her investigation. No license shall be issued until these reports have been submitted to the City Clerk and such reports shall be submitted within ten (10) working days after the City Clerk receives the applications.

SECTION 9. Revocation of license. After giving a licensee thirty (30) days notice and after a hearing the City Council may revoke any license issued under this chapter for the following reasons:

1. The licensee has made fraudulent statements in his or her application for the license or in the conduct of his or her business.

2. The licensee has violated this chapter or has otherwise conducted his or her business in an unlawful manner.

3. The licensee has conducted his or her business in such a manner as to endanger the public welfare, health, safety, order, or morals.

The notice shall be in writing and shall be served personally or as required for personal service by the Iowa Rules of Civil Procedure. The notice shall state the time and place of the hearing and the reasons for the intended revocation.

SECTION 10. Appeal. If the City Council revokes or refuses to issue a license, the City Clerk shall endorse the reasons upon the application. 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 by a majority vote of the Council members present, if a quorum, and the City Clerk shall carry out the Council's decision.

SECTION 11. Effect of revocation. Revocation of a license shall bar the licensee from being eligible for that license under this chapter until the conditions are corrected that caused the revocation.

SECTION 12. Rebates. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee he or she has paid if he or she surrenders his or her license before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the licensee was issued and then multiplying the result by the number of full days not expired. In all cases, at least one dollar of the original fee shall be retained by the City to cover administrative costs.

SECTION 13. Transfer of license prohibited. In no case shall a license issued under this chapter be transferred to another person or be used for a purpose other than that for which it was issued.

SECTION 14. Display of license. Every person who is issued a license under the provisions of this chapter shall display the license in a conspicuous place on the premises on which the business is being conducted.

SECTION 15. Exemptions. This ordinance shall not be construed to require a license of each employee or agent of one engaged in a licensed occupation. Only the owner, manager, or agent of such an organization need possess a license.

SECTION 16. Special requirements. Every person who is granted a license under the terms of this chapter shall comply with the following regulations that apply in his or her case:

1. Junk Dealers.

A. The County Health Officers and Peace Officers shall be permitted at all time to inspect the junk dealers premises for the existence of materials or conditions dangerous to the public health.

B. All junk yards shall be enclosed within a solid fence at least eight (8) feet in height. The fence shall be solid, and there shall be no gaps between the fence panels; and the fence shall extend to the ground, with no gaps between the fence and the ground. The fence shall hide the contents of the yard from public view. Materials within the yard shall not be stacked higher than the surrounding fence. Any gates in said fence shall be of solid material and equal to height to the fence.

C. The premises upon which a junk yard business is conducted shall consist of more than an area comprising six (6) city lots and no one individual or corporation shall have more than one such business within said town and at one location only. That it is not permissible for more than one person to associate themselves together in order to have a larger area in the business as the above specified area shall be the maximum area allowed to any license holder for the operation of a junk yard business.

D. The City Council, or its representative, may do a quarterly inspection of the junk yard.

SECTION 17. Penalty. Any violation of this chapter shall, upon conviction, be a Municipal Infraction punishable as provided for in Chapter 5 of this Code.

TITLE IV - REGULATION OF BUSINESS

CHAPTER 49

REGULATION OF PLANTING FIELD CORN

SECTION 1. Purpose. The purpose of this chapter is to provide that field corn shall be raised at such a distance from a dwelling so as not to impair an individual's view or cause a resident of the town harm due to the pollen dust, insect infestation, rodent infestation or insecticide drift.

SECTION 2. Restriction. That no person, firm, or corporation shall plant or raise what is commonly known as field corn or raise any kind, type, or variety of field corn on any plotted lot within the incorporation limits of the City of McCallsburg, Story County, Iowa, unless such corn is planted at least one hundred (100) feet or more from any dwelling within the incorporation limits of the City of McCallsburg, Story County, Iowa.

SECTION 3. Penalty. Any violation of this chapter shall, upon conviction, be a Municipal Infraction punishable as provided for in Chapter 5 of this Code.

TITLE V - FRANCHISES

CHAPTER 52

ELECTRIC FRANCHISE

An Ordinance granting to INTERSTATE POWER AND LIGHT COMPANY ("Company"), its successors and assigns, the right and franchise to acquire; construct, erect, maintain and operate in the City of McCallsburg, Story County, Iowa, works and plants for the manufacture and generation of electricity and a distribution system For electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric current along, under and upon the streets, avenues, alleys and public places in the City of McCallsburg, Story County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public places, electric lines through the said City of McCallsburg, Story County, Iowa, to supply individuals, corporations, communities and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (2f) years, granting to said Company the right of eminent domain.

BE IT ORDAINED BY THE City Council of the City of McCallsburg, Story County, Iowa:

Section 1. There is hereby granted to INTERSTATE POWER AND LIGH-IT COMPANY, hereinafter referred to as the "Company", its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City of McCallsburg, Story County, town, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the distribution of electric Current along, under and upon the streets, avenues, alleys and public places in the said City of McCallsburg, Story County, Iowa; also the right to erect and maintain upon the streets, avenues, alleys and public places, electric lines through the said City of McCallsburg, Story County, Iowa, to supply individuals, corporations, communities, and municipalities both inside and outside of said City with electric light, heat and power for the period of twenty-five (25) years; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa.

Section 2. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys, and public places in said City nor unnecessarily interfere with the proper use of the same, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the said Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

Section 3. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall hack fill all openings in such

manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

Section 4. The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. if the City orders or requests the Company to relocate its existing facilities or equipment For the primary benefit of a commercial or private project, or as the result or the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising Its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

Section 5. The Company, its successors and assigns, shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the town Utilities Board.

Section 6. The system authorized by this Ordinance shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of said City and its inhabitants thereof and shall be kept in a modern and up-to-date condition.

Section 7. The franchise granted by this Ordinance shall not be exclusive.

Section 8. Service to be rendered by the Company under this franchise shall be continuous unless prevented from doing so by fire, Acts of Cod., unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

Section 9. The term of the franchise granted by this Ordinance and the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

Section 10. The expense of the publication of this Ordinance shall be paid by the Company.

Section 11. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from passage of this Ordinance.

Section 12. This Ordinance sets forth and constitutes the entire agreement between the Company and the City of McCallsburg with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Upon acceptance by the Company, this Ordinance shall supersede, abrogate and repeal the prior electric system ordinance between the Company and the City of McCallsburg as of the date this Ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City of McCallsburg enact any ordinance or place any limitations, either operationally or through the assessment of fees that create additional burdens upon the Company, or which delay utility operations.

Ordinance passed on January 4, 2010.

TITLE V - FRANCHISES

CHAPTER 53

NATURAL GAS FRANCHISE

An Ordinance granting to INTERSTATE POWER & LIGHT COMPANY ("Company"), Its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate a natural gas distribution system in the City of McCallsburg, Story County, Iowa, and the right to lay down, operate and maintain the necessary pipes, mains, and other conductors and appliances in, along, and under the streets, avenues, alleys and public places in the City of McCallsburg, Story County, Iowa; as now or hereafter constituted, for a period of twenty-five (25) years, for the purpose of distributing, supplying, and selling natural gas to the City and its inhabitants thereof and to persons and corporations beyond the limits thereof.

BE IT ORDAINED BY THE City Council of the City of McCallsburg, Story County, Iowa:

Section 1. There is hereby granted to INTERSTATE POWER & LIGHT COMPANY, hereinafter referred to as the "Company", its successors and assigns, the right, franchise and privilege for the term of twenty-five (25) years from and after the passage, adoption, approval and acceptance of this Ordinance, to lay down, maintain and operate the necessary pipes, mains and other conductors and appliances in, along and under the streets, avenues, alleys and public places in the City of McCallsburg, Story County, Iowa as now or hereafter constituted, for the purpose of distributing, supplying and selling gas to said City and the residents thereof and to persons and corporations beyond the limits thereof; also the right of eminent domain as provided in Section 364.2 of the Code of Iowa. The term "gas" as used in this franchise shall be construed to mean natural gas only.

Section 2. The mains and pipes of the Company must be so placed as not to unnecessarily interfere with water pipes, drains, sewers and fire plugs which have been or may hereafter be placed in any street, alley and public pieces in said City nor unnecessarily interfere with the proper use of the sane, including ordinary drainage, or with the sewers, underground pipe and other property of the City, and the mid Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the laying down, operation and maintenance of said natural gas distribution system.

Section 3. In making any excavations in any street, alley, avenue or public place, Company. Its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shalt not unnecessarily obstruct the use of the streets, shall back fill all open high in such manner as to prevent settling or depressions in surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are ended shall repair the same.

Section 4. The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may at any time reasonably require for the purposes of facilitating the contraction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement, if the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall deprive the Company of its right to operate and maintain existing facilities, until the reasonable cost of relocating the same are paid to the Company.

Section 5. Said Company, its successors and assigns, shall throughout the term of the franchise distribute to all consumers gas of good quality and shall furnish uninterrupted service, except as interruptible service may be specifically contracted for with consumers; provided, however, that any prevention of service caused by fire, act of God or unavoidable event or accident shall not be a breach of this condition if the Company resumes service as quickly as is reasonably practical after the happening of the act causing the interruption.

Section 6. The franchise granted by this Ordinance shall not be exclusive.

Section 7. The term of the franchise granted by this Ordinance the rights granted thereunder shall continue for the period of twenty-five (25) years from and after its acceptance by the said Company, as herein provided.

Section 8. The expense of the publication of this Ordinance shall be paid by the Company.

Section 9. The franchise granted by this Ordinance shall be conditioned upon acceptance by the Company in writing. The acceptance shall be filed with the City Clerk within ninety (90) days from Company from the passage of this Ordinance.

Section 10. This Ordinance sets forth and constitutes the entire agreement between the Company and the City of McCallsburg with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance the Company. Upon acceptance by the Company, this Ordinance shall supersede, abrogate and repeal the prior gas system ordinance between the Company and the City of McCallsburg as of the date this Ordinance is accepted by the Company. Notwithstanding the foregoing, in no event shall the City of McCallsburg enact any ordinance or place any limitations, either operationally or through the

assessment of fees, that create additional burdens upon the Company, which delay utility operations.

Ordinance passed January 4, 2010.

TITLE V - FRANCHISES

CHAPTER 54

CABLE TV FRANCHISE

SECTION 1. Grant of franchise. A non-exclusive right is hereby granted to Vista Communications, Ltd., its successors and assigns to establish, construct, operate, maintain, repair, replace, renew, reconstruct, and remove a cable television system across public property in the city limits for a term of twenty-five (25) years, in accordance with the laws and regulations of the United States of America and the State of Iowa and the ordinances and regulations of the City of McCallsburg, including the non-exclusive right, privilege, and authority:

1. To sell and supply audio, video, data, and digital communication services and other electronic services to persons within the City.
2. To use public property and right-of-way within the City.
3. To engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

SECTION 2. Effective date of franchise. The franchise shall become effective on the effective date of this chapter.

SECTION 3. Ownership of franchise. Vista Communications, Ltd. shall not assign or transfer any right granted under this ordinance to any other person, company, or corporation without prior consent of the City Council, which consent shall not be unreasonably withheld, provided however the company shall have the right to assign or transfer this franchise to a corporation owned by the company or to a limited partnership of which the company is a partner, general partner, or affiliate. No consent by the City Council shall be required for a transfer in trust, mortgage, or other financial instrument to secure an indebtedness of the cable system or company.

SECTION 4. Severability clause. Should any section, clause, or provision of this chapter be declared invalid by a court of record, the same shall not affect the validity of this ordinance as a whole or any part thereunder other than the part so declared invalid.

SECTION 5. Conflicting ordinances. All ordinances or parts thereof in conflict with the terms of this ordinance are hereby repealed, provided, however, that such repeal shall only be to the extent of such conflict.

SECTION 6. Effective date of ordinance. This ordinance shall be in full force and effect from and after its adoption and approval by the electors, City of McCallsburg, Iowa, its publication as provided by law, and its written acceptance by Vista Communications, Ltd.

TITLE V - FRANCHISES

CHAPTER 55

OPERATION OF CABLE TV FRANCHISE

SECTION 1. Purpose and scope. The purpose of this chapter is to require that all cable television systems within the City of McCallsburg operate pursuant to city franchise and this chapter and to regulate such activity consistent with the Federal Cable Communications Policy Act of 1984, the Federal Communications Commission rules and regulations promulgated thereunder, as well as any and all other applicable statutes and regulations.

SECTION 2. Grant of Authority. The Grantee has a nonexclusive right and privilege to construct, erect, operate, maintain, and remove, in, upon, along, across, above, over, and under the streets, alleys, public ways, and public places, including any and all public easements held by the City for utility purposes, now laid out or dedicated and all extensions thereof, and additions thereto, in the city poles, wires, cables, underground conduits, manholes, and other cable conductors and fixtures necessary for the maintenance and operation in the City of McCallsburg of a cable communications system, to be used for the sale and distribution of cable services to the residents of the City.

The Grantee shall conduct its operations at all times during the life of its franchise, in accordance with the provisions of both the franchise and this regulatory ordinance and shall be subject to all lawful exercises by the City of its police powers.

SECTION 3. Authority. This ordinance is passed and approved by the City Council, the City of McCallsburg, and enacted pursuant to the laws of the State of Iowa.

SECTION 4. Use of Property. The Grantee may use public property within the City and, with the written consent of the owner thereof, private property within the City in furtherance of such activities within the City as may now or hereinafter be consistent with generally accepted principles applicable to the operation of a cable television system subject, however, to the following restrictions:

1. The Grantee shall comply with all governmental laws, ordinances, rules, or regulations as may now or hereinafter be applicable thereto.

2. The Grantee shall not use, occupy, or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:

A. Impair the owner's interest in or title thereto.

B. Impair any mortgage or lease as may now or hereinafter be applicable thereto:

C. Adversely affect the then value or character thereof.

D. Cause or be likely to cause structural damage thereto, or any part thereof.

E. Cause or be likely to cause any damage or injury to any utility service available thereto.

F. Create a public or private nuisance, cause any offensive or obnoxious vibration, noise, odor, or undesirable effect or interfere with the safety, comfort, or convenience of the owner thereto, and persons lawfully on or about the same;

G. Violate the rules, regulations, and requirements of any person furnishing utilities or services thereto.

H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

SECTION 5. Taxes. The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees, and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

SECTION 6. Insurance. The Grantee shall, during the initial term of the franchise, or any extension thereof, maintain the broadest form of general comprehensive public liability insurance available to insure against claims for personal injury or property damage however arising from or related to or connected with the construction, operations, maintenance, repair, replacement, renewal, reconstruction and removal of the cable television system of the Grantee and/or the obligations and liabilities assumed by the Grantee under the franchise.

1. The limits of said coverage shall be at least \$100,000 - \$300,000 for personal injury and \$100,000 for property damage, with so-called umbrella coverage of at least \$1,000,000.

2. The insurance shall be issued by an insurance company of recognized responsibility licensed to do business in Iowa.

3. The insurance shall not be changed or canceled without fifteen (15) days written notice to, and approval by the City.

4. The insurance shall name the City, its officers, agents, employees, servant, and independent contractors as additional named insured.

5. Within ten (10) days after the commencement of the initial term of the franchise, and thereafter within ten (10) days prior to the expiration of the insurance, the Grantee shall deliver to the City certificates of insurance certifying that the insurance is in full force and effect.

SECTION 7. Payment to City. The Grantee shall pay to the City three percent (3%) of its annual "basic monthly cable television service" revenue for services rendered to customers located within the City. All payment as required by the Grantee to the City shall be made quarterly.

SECTION 8. Repairs. During the term of the franchise, Grantee shall at its own expense, make all necessary repairs and replacements to the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as nonstructural, shall be made promptly, as and when needed.

SECTION 9. Rates and charges. The Grantee shall have the authority to promulgate such rules, regulations, terms, and conditions of its business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its services under the cable television franchise and to assure non-interrupted service to each and all of its customers. The Grantee agrees, however, to charge for basic cable television service the sum of \$14.95 per month for a period of twenty-four (24) months from and after the effective date of this franchise. Additionally, Grantee shall provide free installation of basic cable service for sixty (60) days from and after the effective date of the franchise and thereafter shall charge \$20.00 per install for a period of two (2) years from and after the effective date of the franchise.

SECTION 10. Hold harmless. During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for and the Grantee forever indemnifies the City against and agrees to hold and save the City harmless from, any and all loss, damage, injury, costs, expenses, liability, claims, settlements, judgments, decrees, and awards for every kind and nature whatsoever, including attorneys fees, costs, and disbursements, that may ever be claimed against the City by any person whatsoever, or on account of any actual or alleged loss, damage, or injury to any property whatsoever, however arising from or related to or connected with, directly or indirectly, (a) injury to or death of any person, or loss, damage, or injury to any property owned or used by any person, while on, about, or adjacent to any property of the Grantee, and/or (b) the non-observance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations or rules duly promulgated by any governmental entity which may be applicable, directly or indirectly, to rights privileges and authority, and the obligations and liabilities, assumed by the Grantee under the franchise, and/or (c) the non-observance by the Grantee of the any of the terms and conditions of the franchise, and/or (d) the granting of the franchise.

TITLE V - FRANCHISES

CHAPTER 56

CABLE TELEVISION FRANCHISE REGULATORY PROVISIONS

SECTION 1. Purpose. The purpose of this ordinance is to provides regulatory provisions of the cable television system to the City of McCallsburg, Iowa. This ordinance shall be known and may be cited as the "McCallsburg Cable Television Regulatory Ordinance."

SECTION 2. Definitions. For the purpose of this ordinance the following terms, phrases, words, or derivations shall have the meaning given to this chapter.

1. The term "Company" shall mean Valley Cable Systems, Inc., an Iowa Corporation, with its offices in Huxley, Iowa, the Grantee of rights under this regulatory ordinance and also any other successor or grantee of rights.

2. The term "Federal Communications Commission or FCC" shall mean that federal agency constituted by the Communications Act of 1934 and as amended.

3. The term "Gross subscriber revenues" shall mean only those revenues derived from the monthly service charges paid by subscribers located within the City for regular cable television reception service, which service includes only the transmission of broadcast signals and the program- ming presented to the required access and originations channels, if any. Gross subscriber revenues shall not include any revenues received:

A. As reimbursement of expense in the operation of any access channels.

B. As advertising payments.

C. From the leasing of cable channels.

D. From programs for which a per-channel, per- program, or tier charge is made.

E. From furnishing other communications and non-broadcast services either directly or as a carrier from another party or any other income derived from the system. Gross subscriber revenues shall also not include revenues received as installation charges and fees for reconnections, inspections, repairs, or modifications of any installments.

4. The term "Person" shall mean any person, firm, partnership, association, corporation, company, or organization of any kind.

5. The term "System" shall mean the lines, fixtures, equipment, attachments, and appurtenances thereto which are used in the construction, operation, and maintenance of the cable television system authorized in this ordinance.

6. The term "Franchise" shall mean the rights, privileges, and authority granted by the City to the Grantee hereunder and shall include all of the terms and conditions of this chapter.

7. The term "Private Property" shall mean all property, real, personal, or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.

8. The term "Property of the Grantee" shall mean all property real, personal, or mixed owned or used by the Grantee however arising from or related to or connected with the franchise.

9. The term "Public Property" shall mean all property, real or personal, or mixed owned or used by the City, including property owned or used by a public utility owned or operated by the City.

SECTION 3. Ordinance-grant of franchise. This regulatory ordinance which grants to the Company the nonexclusive right to construct, operate, and maintain a cable television system in the City, was passed and adopted by the City Council after a full, open and public proceeding. Said proceeding was held after public notice was given and afforded all interested parties were given the opportunity to comment. Therefore, the City grants to the Company a nonexclusive franchise, right and privilege to construct, erect, operate, modify, and maintain, in, upon, among, across, above, over, and under the highways, streets, alleys, sidewalks, public ways, and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the City, for 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 television and radio signals, and other electronic impulses in order to furnish television and radio programs, data, telephone, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways, and public places and all manner or easements for the purpose set forth in this ordinance.

SECTION 4. Compliance-required generally. The company shall, at all times during the life of this regulatory ordinance be subject to all lawful exercise of the police power by the City and to such reasonable regulation as the City shall hereafter by resolution or ordinance provide. The construction, operation, and maintenance of the system by the Company shall be in full compliance with such portions of the National Electrical Safety Code as may be applicable and in full compliance with all applicable rules and regulations of the Federal Communications Commission, the City or any other agency of the state or the United States, which may hereafter acquire jurisdiction of the operations of the Company authorized in this ordinance.

SECTION 5. Compliance-National Electrical Safety Code. All facilities and equipment of the Company shall be constructed and maintained in accordance with the requirements of the National Electrical Safety Code.

SECTION 6. Compliance-FCC rules and regulations. The Company shall, at all times, comply with the rules and regulations of the FCC governing CATV operations.

SECTION 7. Modification of FCC rules. Consistent with the requirements of Rule 76.31(a)(6) of the FCC, any modification of Rule 76.31 resulting in amendment thereto by the FCC, shall automatically be incorporated in this ordinance by specific amendments thereto and by lawful action of the City, within one year from the effective date of the FCC's amendment.

SECTION 8. Transfer. The Company shall not sell or transfer any rights granted under this ordinance to another without written notice and approval by the City; provided, that such approval shall not be unreasonably withheld if the Company, or assignee has filed with the City an instrument duly executed, reciting the fact of such sale or assignment, accepting the terms of this ordinance and agreeing to perform all conditions thereof. The Company shall have the right, without the consent of the City, to assign or transfer this franchise to a corporation owned by the Company or to a partner or affiliate. No consent by the City Council shall be required by the transfer in trust, mortgage, or other financial instrument to secure an indebtedness of the Cable System or Company.

SECTION 9. Company rules and regulations. The Company shall have the authority to establish such rules, regulations, terms, and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this ordinance, and to assure an uninterrupted service to each and all subscribers.

SECTION 10. Franchise-term. The franchise granted the Company in this ordinance shall terminated twenty-five (25) years from date of grant, subject to renewal for additional twenty-five (25) year periods of duration on the same terms and conditions as contained in this ordinance, and as are consistent with the requirements of Rule 76.31 of the FCC or as amended by the FCC. If Company has reasonably performed to the requirements and conditions of this ordinance, the City will not unreasonably withhold granting a renewal of this franchise to the Company.

SECTION 11. Franchise-renewal. The Company shall be a party to any such proceedings and any other proceedings in which its rights, privileges, or interest would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules, or regulations.

SECTION 12. Systems construction and maintenance.

1. Upon grant of the franchise to construct and maintain a cable television system in the City, and in furtherance of the Company's execution of contracts with public utility companies, the Company may obtain right-of-way permits from appropriate state, county, and federal officials

necessary to cross highways or roads to supply main trunk lines from the Company's receiving antennas. The Company shall construct its cable system using material of good and durable quality, and all work involved in the construction, installation, maintenance, and repair of the cable system shall be performed in a safe, thorough, and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the Company.

2. In the event that the City elects to alter or change the grade of any street, alley, or other public way, the Company, upon notice by the City shall remove, relay, or relocated its wires, cables, and other fixtures at the Company's own expense.

3. The Company shall, on the request of any person holding a building or moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the Company shall have the authority to require such payment in advance. The Company shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

4. The Company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the City and to public elementary or secondary school if located in the City where cable is already installed to service others. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

SECTION 13. Construction schedule. The Company shall accomplish significant construction at least twenty percent (20%) within one (1) year after receiving FCC certification and other necessary federal approvals, and shall thereafter reasonably make the line extension provisions of Section 14, within two (2) years after receiving above federal approval.

SECTION 14. Line extensions. It shall be the obligation of the Company to serve all residents of the City except to the extent that density of home, adverse terrain, or other factors render providing service impracticable, technically unfeasible, or economically noncompensatory to the Company. For purposes of determining compliance with the provisions of this section, the Company shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there are an average of forty-five (45) homes per each linear mile of new main cable construction. Extensions of service shall be required only on a basis which is reasonable and compensatory to the Company and as determined by the Company.

SECTION 15. City rights.

1. City Rules. The right is reserved by the City to adopt, in addition to the provisions contained in this ordinance, such additional regulations as it shall find necessary in the exercise of the police power; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this ordinance, and shall not be in conflict with the applicable laws of the state or the United States, or any FCC regulations.

2. Emergency. In the case of any emergency, the Company shall, upon request of the City, make available its facilities to the City for emergency use during emergency period.

3. Liability. The City shall not be liable for any damage occurring to the property of the Company caused by employees of the City in the performance of their duties. The City shall not be liable for the interruption of service by actions of City employees in the performance of their duties, nor shall the City be held liable for the failure of the Company to be able to perform normal services due to other factors beyond the control of the City.

4. No Property Right. Nothing in this ordinance shall grant to the Company any right or property in the City owned property.

5. Construction Approval by City. The City shall have the right to inspect the construction, operation, and maintenance of the cable television system by the Company.

6. Correction of Defects. In the event the Company should violate any of the terms of this regulatory ordinance, the City shall immediately give to the Company, sixty (60) days written notice to correct such violation and in the event the Company does not make such correction within sixty (60) days from the receipt of such written notice, the City may make such correction itself and charge the cost of same to the Company, and the Company shall pay such charges.

SECTION 16. Use of property. The Company may use public property within the City and with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system subject however, to the following restrictions.

1. Laws and Regulations. The Company shall comply with all governmental laws ordinances rules or regulations as may now or hereinafter be applicable thereto.

2. Restrictions. The Company shall not use, occupy, or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:

A. Impair the owner's interest in or title thereto.

B. Impair any mortgage or lease as may now or hereinafter be applicable thereto.

C. Adversely affect the then value or character thereof.

D. Cause or be likely to cause structural damage thereto, or any part thereof.

E. Cause or be likely to cause any damage or injury to any utility service available thereto.

F. Create a public or private nuisance, cause any offensive or obnoxious vibrations, noise, odor, or undesirable effect or interfere with the safety, comfort or convenience of the owner thereof, and persons lawfully on or about the same.

G. Violate the rules, regulations, and requirements of any person furnishing utilities or services thereto.

H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

SECTION 17. Taxes. The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees, and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

SECTION 18. Publication costs and legal fees. The Company shall assume the costs of the publication of the ordinance if such publication is required by law. A bill for publication costs shall be presented to the Company and said publication costs shall be paid at that time by the Company. The City shall assume the costs of the City Attorney and associated City legal fees.

SECTION 19. Payments to the City. The Company shall, commencing one (1) year from the date of the first service, and during each year of operation, pay to the City three percent (3%) of the annual gross subscriber revenues received by the Company for regular monthly cable television services rendered to customers located within the City. At the time of this annual payment, the Company shall furnish to the City a report showing the cable television systems annual gross subscriber revenue for the period that payment is being made. All payments as required by the Company to the City shall be made semi-annually and shall be due forty- five (45) days after the close of the six (6) month period.

SECTION 20. Rates and charges-change.

1. For the purpose of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental or studio equipment, provisions of program production services, tiered channels, per-channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval by the City.

2. In consideration for the services rendered to the subscribers, the Company may have the right to charge and collect reasonable and just compensation which shall reflect, among other things, the Grantee's need to attract new capital and provide a reasonable return on invested capital, the Company, from time to time, may alter these rates at is discretion. The Company and the City agree that rates charged to subscribers are no longer subject to regulation by local government. The Federal Cable Communications Policy Act deregulated Cable Television.

SECTION 21. Recordkeeping The Company shall keep accurate and current maps, plans of the system, and these items shall be made available to the City.

SECTION 22. Service procedures. During the term of this ordinance, a toll-free telephone number shall be provided by the Company to receive complaints regarding quality of service, equipment malfunctions, and similar matters. The office shall be open to receive inquiries or complaints from subscribers during normal business hours, Monday through Friday.

1. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within five (5) business days of their receipt. The Company shall keep a maintenance service log which will indicate the nature of each service complaint, and the date and time it was received.

2. The Company shall use appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address, and toll-free telephone number of the Company.

3. The equipment installed by the Company in the subscriber's home shall remain the property of the Company, and shall be subject to reasonable inspection and service by the Company at reasonable hours, and removal upon non-payment or termination of the service.

4. In the event that any subscriber shall fail to meet his or her obligations for payment of CATV service and to meet reasonable Company rules and regulations, the Company shall have the right to withhold or deny or disconnect CATV services to such subscriber.

SECTION 23. Protection of privacy.

1. The Company shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing aural, visual, or digital signals without first obtaining permission of the subscriber.

2. It is unlawful for any person to attach or affix or cause to be attached or affixed any equipment or device which allows access or use of the CATV service without payment to the Grantee for same. Such action shall be a simple misdemeanor.

SECTION 24. Program content restrictions. In addition to providing basic cable television service consisting of broadcast and automated signals, the Company may offer subscribers optional services on a per-program or per-channel basis. However, the Company shall not display X-rated motion pictures either as part of its basic cable or pay cable services.

SECTION 25. Liability and indemnification and hold harmless.

1. During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee forever agrees to indemnify the City against, and agrees to hold and save the City harmless from, any and all damage, injury, costs, expenses, liability, claims, settlements, judgements, decrees, and awards of every kind and nature whatsoever, including attorney fees, costs, and disbursements that may ever be claimed against the City by any person whatsoever, or an account of any actual or alleged loss, damage, or injury to any property or person whatsoever, however arising from or related to or connected with, directly or indirectly, (a) injury to or death of any person, or loss, damage, or injury to any property of the Grantee and/or (b) the non-observance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations, or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Company under the franchise, and/or (c) the nonobservance by the Company or any of the terms and conditions of the franchise, and/or (d) the granting of the franchise.

2. Company's Works' Compensation, Comprehensive General Liability and Comprehensive Automobile Liability insurance shall be written by an insurance company authorized to do business in the state. Company agrees to furnish City with certificates of insurance of said policies.

3. Automobile. Automobile insurance with limits of not less than \$100,000 - \$300,000 of public liability coverage and automobile property damage insurance with a limit of not less than \$100,000 covering all automotive equipment, with so-called umbrella coverage of at least \$5,000,000.

4. Notice of Cancellation. All of said insurance coverage shall provide a ten (10) day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.

5. Copies Filed. Copies of all insurance policies required hereunder shall be furnished to and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be.

6. Defense Costs. The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties, or other claims resulting from the acts of the Grantee, its assignees, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

SECTION 26. Activities prohibited.

1. The Company shall not allow its cable or other operations to interfere with television reception of others or the operation of the various utilities serving the City residents.

2. No person whether or not a subscriber to the cable system may intentionally or knowingly damage, or cause to be damaged, any wire, cable, conduit, equipment, or apparatus of the Company, or commit any act with intent to cause such damage, or to tap, tamper with, or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus , or appurtenances of the Company with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the Company, or to obtain cable television or other communications service with intent to cheat or defraud the Company of any lawful charge to which it is entitled.

C. Any person convicted of violating any provision of this section is subject to a fine or not less than fifty Dollars (\$50), nor more than five hundred Dollars (\$500) for each offense. Each day's violation of this section shall be considered a separate offense.

SECTION 27. Repealer. That all ordinances in conflict herewith are hereby repealed. There are none.

TITLE V - FRANCHISES

CHAPTER 57

TELEPHONE FRANCHISE

ORDINANCE NO, TITLE 7, CHAPTER 7

AN ORDINANCE GRANTING TO GENERAL TELEPHONE COMPANY OF THE MIDWEST, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND PRIVILEGE TO ACQUIRE, CONSTRUCT, RECONSTRUCT, MAINTAIN, EXTEND AND OPERATE IN, UPON, THROUGH, OVER, UNDER, ALONG AND ACROSS TILE PUBLIC STREETS, ALLEYS, HIGHWAYS AND OTHER PASSAGeways OR PUBLIC GROUNDS OF OR IN THE CITY OF McCallsburg IOWA, THE LINES, POLES, WIRES, STUBS, ANCHORS, CABLES, VAULTS, LATERALS, CONDUITS AND OTHER FIXTURES, EQUIPMENT AND FACILITIES CONSTITUTING A TELEPHONE PLANT OR SYSTEM NECESSARY OR CONVENIENT FOR SUPPLYING TELEPHONE SERVICE AND COMMUNICATION BY TELEPHONE OR OTHER ELECTRICAL DEVICE, AND FOR CONDUCTING A GENERAL TELEPHONE BUSINESS, LOCAL AND LONG DISTANCE, IN AND ABOUT SAID MUNICIPALITY FOR A TERM OF TWENTY-FIVE YEARS; PRESCRIBING THE CONDITIONS OF THE GRANT, AND PROVIDING FOR THE PROTECTION THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF McCALLSBURG, IOWA:

Section 1, GENERAL TELEPHONE COMPANY OF THE MIDWEST, a corporation, its successors and assigns (hereinafter referred to as "Grantee"), is hereby granted a franchise for a period of twenty-five (25) years from the effective date of this ordinance to acquire, construct, reconstruct, maintain, extend and operate such telephone plant or system and such facilities thereof, including lines, poles, wires, stubs, anchors, cables, vaults, laterals, conduits and other fixtures and equipment in, upon, though, over, under, along and across the public streets, alleys, highways and other passageways or public grounds of or in the Corporate limits of the city of McCallsburg, Iowa (hereinafter referred to as "Municipality"), as now or hereafter established, as may be necessary and/or convenient for supplying to the citizens of the municipality, to adjacent rural areas and to the public at large telephone service, local and long distance, and communication by telephone or other electric signals, and for the conduct of a general telephone business therein.

Section 2. Grantee's rights and privileges in the public ways and grounds of the municipality shall, be exercised as follows:

a) Locations of its existing system are hereby approved; changes of location, additions or extensions thereto affecting public grounds or ways shall be under the supervision of Municipality's street committee or such other officer or officers as may be designated by the Mayor and Council for that purpose.

b) The installations of Grantee shall be so placed and the servicing and operation thereof so performed as to not unreasonably interfere with ordinary travel on the public ways or with ingress to or egress from public or private property.

c) Grantee may make excavations in public grounds or ways, and may take up such portions of pavement or sidewalk as it deems necessary for the installation, maintenance, replacement or removal of its facilities. Excavations so made shall be refilled and surfacing thus disturbed shall be restored to as reasonably good condition as before.

d) Grantee shall permit Municipality to attach to its poles its fire and/or police wires and apparatus incident thereto - such attachments to be made under the direction and supervision of Grantee and so made and maintained as not to interfere with Grantee's use of said poles.

Section 3. Grantee shall accommodate public or private necessity to move along or across public ways or grounds of the municipality vehicles or structures, other than parade components, of such height or size as to interfere with its poles and/or wires erected hereunder and shall temporarily remove or adjust the same to permit such passage provided;

a) Written notice thereof shall be served upon Grantee's agent or manager at Grinnell, Iowa, not less than forty-eight (48) hours in advance of the time set for the proposed passage;

b) Grantee be paid in advance the actual cost of such accommodation.

Section 4. Grantee shall indemnify Municipality against lose from claims or causes of action arising out of its construction, reconstruction, maintenance or operation of the installations herein authorized.

Section 5, It shall be unlawful for any person to injure, destroy or deface any property of Grantee lawfully installed and maintained hereunder or to post bills or signs thereon. A violation of this section shall constitute a misdemeanor and be punishable by a fine of not more than one hundred dollars or imprisonment in jail not to exceed thirty days.

Section 6. Ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 7. A determination that any part of this ordinance is invalid shall not affect remaining portions or provisions hereof.

Section 8. Grantee shall pay the costs of publishing this ordinance and of conducting the election thereon required by law.

Section 9. This ordinance shall become effective:

- a) Upon its approval by a majority of the legal electors of the municipality voting thereon;
- b) The publication thereof required by law:
- c) Grantee's written acceptance of same filed with the City Clerk; and
- d) Grantee's payment of the cost of the election, including costs of notice.

PASSED and ADOPTED by the City Council of the City of McCallsburg, Iowa, this 15th day of June, 1978.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 61

PLANNING AND ZONING COMMISSION

SECTION 1. Planning and Zoning Commission. There shall be a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of five (5) members, who shall be citizens of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City Plan and who shall not hold any elective office in the City Government, appointed by the Mayor, subject to the approval of the Council.

SECTION 2. Term of office. The term of office of the members of the Commission shall have five (5) years. The terms of not more than two (2) of the members will expire in any one year. The first term of office of the initial member of the Commission shall be as follows: two (2) appointed for three (3) years; One (1) appointed for four (4) years; two (2) members appointed for five (5) years.

SECTION 3. Vacancies. If any vacancy shall exist on the Commission caused by the resignation, or otherwise, a successor for the residue of said term shall be appointed in the same manner as the original appointee.

SECTION 4. Compensation. All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the Council.

SECTION 5. Powers and duties.

1. Selection of Officers. The Council shall appoint annually one member of the Planning and Zoning Commission to act as Chairman; and the Commission shall choose another to act as vice-chairman who shall perform all the duties of the chairman during his or her absence or disability.

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

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

4. Appointment of Assistants. Subject to the limitations contained in this chapter as to the expenditure of funds, it may appoint such assistants as it may deem necessary and prescribe and define their respective duties and fix and regulate the compensation to be paid to the several persons employed by it.

5. Comprehensive Plan. It shall have full power and authority to make or cause to be made such surveys, studies, maps, plans, or charts of the whole or any portion of the City or of any land outside thereof, which in the opinion of the Commission bears relation to the comprehensive plan and shall bring to the attention of the Council and may publish its studies and recommendations.

6. Comprehensive Plan--Preparation. For the purpose of making a comprehensive plan for the physical development of the City, the Commission shall make careful and comprehensive studies of present conditions and future growth of the City and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted, and harmonious development of the City and its environment which will, in accordance with the present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.

7. Comprehensive Plan--Public Hearing. Before adopting a comprehensive plan as referred to in the preceding paragraph, or any part of it, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time of which shall be given by one (1) publication in a newspaper of general circulation in the City not less than ten (10) nor more than twenty (20) days before the date of hearing. The adoption of the plan or part or amendment thereof shall be by resolution of the commission carried by the affirmative vote of not less than two-thirds (2/3) of the members of the Commission. After adoption of said plan by the Commission an attested copy thereof shall be certified to the Council and the Council may approve the same. When said plan or any modification or amendment thereof shall receive the approval of the Council, the said plan until subsequently modified or amended as hereinbefore authorized shall constitute the official City Plan.

8. Comprehensive Plan--Amendments. When the comprehensive plan as hereinbefore provided has been adopted no substantial amendment or modification thereof shall be made without such proposed change first being referred to the Commission for its recommendations. If the Commission disapproves the proposed change it may be adopted by the Council only by the affirmative vote of a majority of the members of the said Council.

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

10. Review and Comment on Plats. All plans, plats, or re-plats of subdivision or re-subdivisions of land embraced in the City or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated to the public in the City, shall

first be submitted to the Commission and its recommendations obtained before approval by the Council.

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

12. Zoning. The Commission shall make recommendations in preparing and amending the City Zoning Code.

13. Fiscal Responsibilities. The Commission shall have full, complete, and exclusive authority to expend for and on behalf of the City all sums of money appropriated to it, and to use and expend all gifts, donations, or payments whatsoever which are received by the City for City Planning or Zoning purposes. All expenditures made by the Commission shall be submitted for review to the City Council each month prior to the first meeting of the City Council.

14. Limitations on Entering Contracts. The Commission shall have no power to contract debts beyond the amount of its income for the present year.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 62

ZONING REGULATIONS

62.01 PURPOSE. This chapter is enacted for the purpose of promoting the public health, safety and general welfare; of providing adequate light and air; of preventing the overcrowding of land, of avoiding undue concentration of population; of securing safety from fire, panic and other dangers; of facilitating the adequate provision of transportation, water, sewage, schools, parks and other public interests, all in accordance with the adopted Comprehensive Plan for the desirable long-range development of the City.

62.02 ZONING PROVISIONS ENACTED. There are established by the provisions of this chapter comprehensive zoning regulations for the City, by dividing the incorporated area into various districts and setting forth certain district standards and general provisions in accordance with Chapter 414 of the Code of Iowa, as amended.

62.03 TITLE AND INTERPRETATION. This chapter shall be known and may be cited and referred to as the "Zoning Ordinance of the City." In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this chapter imposes a greater restriction than is imposed or required by other provisions of law or by other regulations or ordinances, the provisions of this chapter shall control.

62.04 TERRITORY OF JURISDICTION. This chapter applies to all of the territory within the incorporated limits of the City.

62.05 DEFINITIONS. As used in this chapter, the words "used and occupied" also mean "intended, designed or arranged to be used or occupied." In addition, the following words or terms are defined as set out in this chapter.

1. "**Accessory building**" means a subordinate building located on the same lot with the main building, occupied by or devoted to an accessory use, more than 150 square feet in size and not attached to the principal structure. Where an accessory building is attached to the main building in the subordinate manner, as by a wall or roof, such accessory building shall be considered part of the main building.

2. "**Accessory use**" or "**accessory structure**" means use or structure on the same lot with, and of a nature customarily incidental and subordinate to the principal use or structure, but not including incomplete or inoperable motor vehicles. Any such use or structure must comply with accessory building height.

3. "**Adult use establishment**" means any real property used by any person to disseminate, display, allow to be displayed, sell, offer to sell, rent or transfer possession of, with or without consideration, sexually explicit material. The term "adult use establishment" includes, but is not limited to, enterprises commonly known as adult bookstores, strip bars, juice bars and adult

theaters that disseminate, display, allow to be displayed, sell, offer to sell, rent or transfer possession of, with or without consideration, sexually explicit material. The term "adult use establishment" does not include dwellings used exclusively for residential purposes; enclosed single-sex public restrooms; enclosed single-sex functional shower, locker or dressing room facilities; enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations; areas within doctor's offices, medical clinics, hospitals, and other licensed medical health care facilities designed and intended for the examination of patients; and similar places in which nudity is necessarily and customarily expected outside of the home and the sphere of privacy constitutionally protected therein.

A. "**Nude**" means the genitals, vulva; pubis, pubic symphysis, pubic hair, buttocks, natal cleft, perineum, anus, anal region or pubic hair region of any person, or any portion of the breast at or below the upper edge of the areola thereof of any female person, is exposed to public view or not covered by opaque covering.

B. "**Sex act**" means any sexual contact, actual or simulated between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, by contact between a finger of one person and the genitalia of another person or by use of artificial sexual organs or substitutes therefore in contact with the genitalia or anus, or masturbation, except palpitation in the course of examination or treatment by a person licensed under Iowa law to make such examination.

C. "**Sexually explicit material**" means:

(1) Any printed, electronic or moving pictures in which there is a sex act; or

(2) Any live appearance: (i) in which there is a sex act; (ii) in which any person who is an owner, employee or independent contractor of any commercial enterprise is nude; (iii) in which any person who acts as an entertainer is nude, whether or not the activity is performed for compensation; or (iv) in which any patron or invitee is nude. The term "sexually explicit material" does not include motion pictures rated by the Motion Picture Association of America as "G," "PG," "PG-13," "R," or "NC-17."

4. "**Agriculture**" means the use of land for growing crops, including farming, pasturage, agriculture and horticulture, and the necessary uses for packing, treating, or storing the produce; excepting grain storage and drying facilities and the raising of farm animals, including dairying, animal and poultry husbandry, and feed lots.

5. "**Alley**" means a public way, other than a street, twenty feet or less in width affording secondary means of access to abutting property.

6. "**Animal pound**" means a public or private facility operated for the purpose of impounding seized, stray, homeless, abandoned or unwanted animals.

7. "**Basement**" means a story having part but not more than one-half of its height above grade. A basement is counted as a story if the vertical distance from the average adjoining grade to its ceiling is over five feet.

8. "**Bed and breakfast establishment**" means a dwelling unit in the R-2 District containing not more than three guest rooms, where rent is paid in money, goods, labor or otherwise. A maximum of six guests shall be allowed to stay, with a maximum stay of seven days. Breakfast, but no other meals, may be provided: A single, non-electric wall sign having an area not to exceed four square feet may be posted, identifying the name of the establishment, telephone number and vacancies only.

9. "**Billboard**," as used in this chapter, includes all structures, regardless of the material used in construction of the same, that are erected, maintained or used for public display of posters, painted signs, wall signs, whether the structure is placed on the wall or painted on the wall itself, pictures or other pictorial reading matter which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.

10. "**Boardinghouse**" means a building other than a hotel, where for compensation, meals or lodging and meals are provided for three or more persons.

11. "**Building**" means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards.

A. "**Height of accessory building**" means the vertical distance between the highest point of the roof structure and the floor slab or grade level of an unfinished floor of an accessory building and shall not exceed 20 feet, with 10-foot sidewalls maximum. The height of accessory building shall not exceed principal building.

B. "**Height of principal building**" means the vertical distance from the average ground level grade of the front wall of the building to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the height of the highest gable of a pitch or hip roof.

C. "**Building depth**" means the longest horizontal distance of all sides combined of a building abutting a side yard or parallel to a side lot line measured from front yard to rear yard.

D. "**Building width**" means the longest horizontal distance of all sides of a building facing a front or rear yard or parallel to the front lot line measured from side yard to side yard.

E. "**Building setback line**" or "**setback line**" - see definition of "yard."

12. "**Building Inspector**" means the person designated by the City to administer and enforce these zoning regulations.

13. "**Carport**" means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two sides. For the purposes of this chapter a carport attached to a principal building shall be considered as part of the principal building and subject to all yard requirements in this chapter.

14. "**Cellar**" means that portion of a building having more than one-half of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

15. "**Cemetery**" means land intended and used for the burial of the human dead, including columbarium, crematories, mausoleums and mortuaries within the boundaries of said cemetery.

16. "**Childcare center**" means any facility which provides care, supervision or guidance for seven or more children by a person other than the parent, guardian or relative for periods of two hours or more and less than 24 hours per day per child on a regular basis in a place other than the child's home or an accredited public or private school.

17. "**Clinic, medical**" or "**dental clinic**" means a building or buildings in which physicians, dentists, or physicians and dentists, and allied professional assistants are associated for the purpose of carrying on their professions.

18. "**Commission**" means the Planning and Zoning Commission of the City.

19. "**Comprehensive Plan**" means a plan intended to guide future growth in the City, consisting of factual base information, determinations of future needs, and goals and objectives, intended to be implemented through the provisions of this chapter and other ordinances of the City; prepared by the Commission and adopted by the Council in accordance with Chapter 414 of the Code of Iowa.

20. "**District**" means a geographical portion of the City within which certain provisions of this chapter are uniformly applied.

21. "**Dwelling**" means any building or portion thereof which is designed or used exclusively for residential purposes but not including a tent, cabin, trailer, manufactured home, mobile home, modular home, motor home, boardinghouse, hotel, motel or recreational vehicle.

A. "**Single-family dwelling**" means a detached residence designed for or occupied by one family only.

B. "**Duplex dwelling**" means a residence designed for or occupied by two families only, with separate housekeeping and cooking facilities for each family.

C. "**Multiple dwelling**" or "**multifamily dwelling**" means a residence designed for or occupied by three or more families, with separate housekeeping and cooking facilities for each family.

D. "**Condominium dwelling**" means a multiple dwelling as defined in this chapter whereby the fee title to each dwelling unit is held independently of the others.

E. "**Patio home dwelling**" means a duplex dwelling as defined in this chapter whereby the fee title to each dwelling unit is held independently of the others. Each unit is erected on a separate lot and separated from others by an approved wall or walls.

F. "**Row dwelling**" means any one of three or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot, and separated from one another by an approved wall or walls.

G. "**Town home dwelling**" means a multiple dwelling as defined in this chapter whereby the fee title to each dwelling unit is held independently of the others. Each unit is erected on a single lot and separated from others by an approved wall or walls.

22. "**Dwelling unit**" means a room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one family containing bathroom and kitchen facilities.

23. "**Family**" means an individual; or two or more persons related to each other by blood, marriage or adoption, including foster children, and not more than two unrelated persons; or not more than four unrelated persons occupying a single dwelling unit, with the intent of staying more than seven (7) days.

24. "**Family home**" means a community-based residential home which is licensed as a residential care facility under Chapter 135C of the Code of Iowa or as a child foster care facility, not individual home, under Chapter 237 of the Code of Iowa to provide room and board, personal care, habilitation services, and supervision in a family environment exclusively for not more than eight developmentally disabled persons and any necessary support personnel. A family home is a permitted use in all residential districts, except that a new family home shall not be located within one-fourth of a mile from another family home.

25. "**Farm**" means an area used for agriculture.

26. "**Fence**" means an artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas.

27. "**Floor area ratio**" means the gross floor area of all buildings on a lot divided by the lot area on which the building or buildings are located.

28. "**Footing**" is that portion of the foundation of a structure which spreads and transmits loads directly to the soil or the piles.

29. "**Garage, private**" means a portion of a dwelling or a building accessory thereto used principally for the shelter of private motor vehicles by the occupants of such dwelling. A private garage is considered an accessory building detached from the principal dwelling only if it is separated from the dwelling by a distance of not less than four feet.

30. "**Gas station**" means any building or premises used for the retail sale of liquefied petroleum products for the propulsion of motor vehicles, and including such products as kerosene, fuel oil, packaged naphtha, lubricants, tires, batteries, antifreeze, motor vehicle accessories, and other items customarily associated with the sale of such products, for the rendering of services and making of adjustments and replacements to motor vehicles, and the washing, waxing, and polishing of motor vehicles, as incidental to other services rendered; and the making of repairs to motor vehicles except those of a major type. Repairs of a major type are defined to be spray painting, body, fender, clutch, transmission, differential, axle, spring, and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof, or complete recapping or re-treading of tires.

31. "**Home occupation**" means an occupation carried on in a dwelling unit provided that the use is limited in extent and compatible with surrounding properties and which meets the requirements for home occupations which are contained in Section 62.31 of this chapter, Supplementary District Regulations.

32. "**Hotel**" or "**motel**" means a building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boardinghouse or a rooming house.

33. "**Junk yard**" means any area where waste, discarded or salvaged materials are bought, sold, exchanged, baled or packed, disassembled, or handled, including places or yards for storage of salvaged house wrecking and structural steel materials and equipment but not including areas where such uses are conducted entirely within a completely enclosed building and not including the processing of used, discarded or salvaged material as part of manufacturing operations.

34. "**Kenel, dog**" means any premises on which four or more dogs, six months old or older, are kept.

35. "**Lot**" means a parcel, plot or tract of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area and to provide such yards and other open space as are required by this chapter. Such lot shall have frontage on an approved public or private street and may consist of: (i) a single lot of record; (ii) a portion of a lot of record; (iii) a combination of complete lots of record; of complete lots of record and portions of lots of record; or of portions of lots of record; and (iv) a parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

A. "**Corner lot**" means a lot abutting upon two or more streets at their intersection.

B. "**Double frontage lot**" means a lot having a frontage on two non-intersecting streets, as distinguished from a corner lot.

C. "**Interior lot**" means a lot other than a corner lot.

D. **"Lot depth"** means the mean horizontal distance between the front and rear lot lines.

E. **"Lot frontage"** means that portion of a lot which abuts a public street. Each side of a lot so abutting a public street shall be considered as separate lot frontage.

F. **"Lot lines"** means the lines bounding a lot. A "front lot line" is a boundary line abutting a public street (see also paragraph I in this subsection). A "rear lot line" is a boundary line opposite a front lot line. A "side lot line," if it exists, is a boundary line lying between a front lot line and a rear lot line.

G. **"Lot of record"** means a lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

H. **"Lot width"** means the width of a lot measured at the building line and at right angles to its depth.

I. **"Reversed frontage lot"** means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first platted lot to its rear.

J. **"Store front"** means an area designed and used to receive customers, and/or house a receptionist.

K. **"Through lot"** means a lot other than a corner lot with frontage on more than one street other than an alley. Lots with frontage on two non-intersecting streets may be referred to as "through lots."

36. **"Manufactured home"** means a factory-built structure built under authority of 42 U.S.C. 5403 required by Federal law to display a seal from the United States Department of Housing and Urban Development constructed on or after June 15, 1976.

37. **"Mobile home"** means any vehicle without motive power used or manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicles with motive power not registered as a motor vehicle in Iowa. A mobile home is not built to a mandatory building code, contains no State or Federal seals, and was built before June 15, 1976.

38. **"Mobile home lot"** means the parcel of land within a mobile home park upon which a single manufactured, mobile, or modular home may be located and which is of at least sufficient size to meet minimum zoning requirements for use, coverage and area as set forth in Section 62.24.

39. **"Mobile home park"** means any site, lot or portion of a lot, field or tract of land upon which two or more mobile homes, manufactured homes, modular homes, or a combination thereof occupied for dwelling purposes are located regardless of whether or not a charge is made for such accommodations.

40. **"Modular home"** means a factory-built structure built on a permanent chassis 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, and must display the seal issued by the State Building Code Commissioner.

41. **"Nonconforming use"** means a building, structure, or premises legally existing and/or used at the time of adoption of this chapter or any amendment to this chapter, which does not conform with the use or regulations of the district in which it is located.

42. **"Nursing home"** or **"convalescent home"** means a building or structure having accommodations and where care is provided for invalid, infirm, aged, convalescent, or physically disabled or injured persons, not including insane and other mental cases, inebriate, or contagious cases.

43. **"Parking lot"** means an open area other than a street or other public way used for the parking of motor vehicles and available for use for a fee or free.

44. **"Parking space"** means a permanently surfaced area of not less than 200 square feet which includes the parking stall plus the maneuvering space required for the parking of motor vehicles. Space for maneuvering, incidental to parking or unpacking, shall not encroach upon any public tight-of-way.

45. **"Permitted use"** means a use by right which is specifically authorized in a particular zoning district.

46. **"Person"** means any human being and any sole proprietorship, partnership, limited liability company, corporation, nonprofit corporation, trust or other type of artificial legal entity.

47. **"Planning and Zoning Committee"** means the local officials responsible for reviewing zoning/building permits. Decisions of the official may be appealed to the City Council. Permits are issued by the City Clerk.

48. **"Porch, unenclosed"** means a roofed projection which has no more than 50% of each outside wall area enclosed by a building or siding material other than meshed screens.

49. **"Principal use"** means the main use of land or structures as distinguished from an accessory use.

50. **"Private roadway"** means a paved access, private right-of-way which is for private usage and ingress and egress to a public street.

51. **"Projections"** (into yards) means parts of buildings such as architectural features that extend beyond the building's exterior wall.

52. "**Rooming house**" means a building where a room or rooms are provided for compensation to three or more persons.

53. "**Rural Residential Subdivision**" means a subdivision of real estate for residential purposes pursuant to Chapter 354 of the Code of Iowa within two miles of the corporate City limits, but not within the corporate City limits.

54. "**Salvage Yard**" means any parcel of land used for dismantling, recycling, storing, abandonment or keeping of junk or machinery, or the dismantling or abandonment of motor vehicles, other vehicles or parts thereof. "Salvage Yard" shall not include any vehicular storage areas.

55. "**Service station**" (gas station) means a building or premises used for dispensing or offering for sale at retail any automobile fuels, oils, or having pumps and storage tanks therefore, or where battery, tire or any similar services are rendered, and where vehicles are not parked for purposes of inspection or sale.

56. "**Setback**" means the required distance between every structure and lot line on the lot in which it is located. Roof overhangs and normal architectural features extending up to two feet beyond the exterior wall of the foundation of the structure shall not be considered in computing the distance between the structure and the lot line, All roof overhangs and other architectural features extending more than two feet beyond the exterior wall of the foundation of the structure shall be considered for purposes of measuring the setback requirements to the extent those roof overhangs and architectural features exceed two feet in length.

57. "**Story**" means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling or a roof next above it. A basement is counted as a story for the purpose of height regulations; a cellar is not.

58. "**Story, half**" means a space under a sloping roof which has the line of intersection of roof decking and wall face not more than four feet above the top floor level.

59. "**Street**" means a public right-of-way which provides a public means of access to abutting property. Streets shall be of PCC construction.

60. "**Street line**" means the right-of-way line of a street.

61. "**Structural alterations**" means any replacement or changes in the type of construction or in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, beyond ordinary repairs and maintenance.

62. "**Structure**" means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, mobile homes, billboards and poster panels.

63. **"Swimming pool"** means a water-filled enclosure, permanently constructed or portable, having a depth of more than 18 inches below the level of the surrounding land, or an above-surface pool, having a depth of more than 30 inches, designed, used, and maintained for swimming and bathing.

64. **"Travel Trailer" or "Camping Trailer"** means a vehicle without motive power used or manufactured or constructed as to permit its being used as a conveyance upon public streets and highways and so designed to permit the vehicles to be used as a place of human habitation by one or more persons. Said vehicle may be up to eight feet in width and any length provided its gross weight does not exceed four-thousand five-hundred (4,500) pounds, which shall be the manufacture's shipping of the actual weight provided its overall length does not exceed thirty-six (36) feet. Such a vehicle shall be customarily or ordinarily used for vacation or recreation purposes; if used as a place of human habitation for more than ninety (90) days in any twelve (12) month period, it shall be classes as a mobile home, regardless of the size and weight limitations provided herein. This definition shall also include house cars and camp cars having motive power and designed for temporary occupancy as defined herein.

65. **"Trailer Camp" or "Tourist Campground"** means an area providing spaces for two or more travel trailers, camping trailers, or tent sites for temporary occupancy, with necessary incidental services, sanitation, and recreation facilities to serve the traveling public.

66. **"Use"** means the purpose or activity for which a piece of land or its buildings is designed, arranged, or intended, or for which it is occupied or maintained.

67. **"Variance"** means a departure from the height, area and yard requirements of this chapter.

68. **"Yard"** means an open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from 36 inches above the general ground level of the graded lot upward, but not including such things as yard recreational and laundry drying equipment, arbors and trellises, flagpoles, yard lights, fences, statuary or other similar decorative things. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and nearest permitted building shall be used.

A. **"Front yard"** means a yard extending across the full width of the lot and measured between the front lot line and the building or any projection thereof, other than the projection of the usual steps. On corner lots, the front yard is considered the yards facing any and all streets.

B. **"Rear yard"** means a yard extending across the full width of the lot and measured between the rear lot line and the building or any projections other than steps, unenclosed balconies or unenclosed porches. On corner, lots with multiple front yards, a rear will not exist.

C. **"Side yard"** means a yard extending from the front yard to the rear yard and measured between the side lot lines and the nearest building. On corner lots, a side yard exists wherever the definitions of a front yard do not apply.

69. "**Zoning map**" means the official zoning map of the City, adopted by the provisions of this chapter together with all amendments thereto subsequently adopted.

62.06 BUILDING PERMIT

1. **Required.** No new construction or expansion of current structures shall proceed without first securing a building permit. Any structure which is permanently attached to the ground by foundation, anchors, etc., shall be erected, moved, or added to, without a permit therefore issued by the Planning and Zoning Committee. No building permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Planning and Zoning Committee. Fees for building permits shall be as provided by City resolution. Building permits shall be applied for at City Hall and shall expire one year after the date of issuance if work is begun within 180 days of issuance or after 1 80 days if no substantial beginning of construction has occurred. Extensions of time may be granted in writing, prior to expiration, by the Planning and Zoning Committee for good cause. Applicants for building permits shall provide the name and registration number required by State law for all contractors to be engaged in the development.

2. **Applications.** All applications for building permits shall be accompanied by plans in duplicate showing the actual dimensions and shape of the lot to be built upon; the exact size and location of the lot and buildings already existing, if any; and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the Planning and Zoning Committee including existing or proposed uses of the building and land; number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter.

3. **Fees.** All fees required shall be paid to the City Clerk, who shall keep complete and accurate record of fees received and shall forthwith deposit them to the credit of the general revenue fund of the City. Failure to approve any request made in an application, petition or appeal shall not be cause to refund the fee. All fees shall be set by resolution of the City Council.

62.07 **RESIDENTIAL DWELLING STANDARDS.** All dwelling units and accessory buildings shall meet the following minimum standards:

1. The minimum single-family dwelling width shall be 22 feet at the exterior dimension.

2. All single-family dwelling units including attached garages shall be placed on a permanent frost-free perimeter foundation. The permanent foundation for a

manufactured home, however, maybe a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site; provided, however (1) the pier foundations are placed below the frost line and (2) the manufactured home is skirted with construction materials giving the appearance of a poured concrete foundation or a cement block foundation to insure visual compatibility with surrounding residential structures.

3. All single-family dwelling units shall provide for a minimum of six hundred sixty (660) square feet of first (1st) floor space except for units within retirement homes, nursing homes, assisted living facilities and family homes. (For purposes of an arch structure, the side walls will be determined to be eight (8) foot vertical and must meet wall requirements.)

4. Have for the exterior wall covering either:

A. Wood or masonry finish or its appearance and/or vertical or horizontal grooved siding or lap siding or its appearance.

B. All skirting covering pier footings or converted mobile homes shall be visually compatible with adjacent residential structures.

5. Use of corrugated sheet metal for the exterior walls on buildings/structures is prohibited.

62.07A. CONSTRUCTION STANDARDS.

1. All structures must comply with the Uniform Building Code. The references to the Uniform Building Code shall refer to the most current edition of that Code.

2. Used materials and equipment in the construction of my structures for which a permit is required, no used material, equipment or devices shall be used or incorporated into the structure unless approved by the building inspector. The used material shall be of such quality and integrity that the material is safe for the intended use.

62.08 ZONING MAP. The official zoning map of the City, adopted with the Code in 2011, and as thereafter amended, is amended and readopted as shown on the zoning map, on file at City Hall, and is made a part of this chapter. The location and boundaries of the zoning districts established by this chapter are set forth on the zoning map in accordance with the Comprehensive Plan.

62.09 ZONING DISTRICTS DESIGNATED. For purposes of this chapter, the City is organized into the following zoning districts, all of which correspond with plan designations set forth in the', Comprehensive Plan and on the Comprehensive Plan snap. The A-1 District can implement any of the plan designations as it is a temporary, not an ultimate zoning district. The following are the districts:

A-1, Agricultural Holding District;

R-2, Single-Family and Duplex Residential District;
R-3, Multifamily Residential District;
R-4, Mobile Home Park Residential District;
C-1, Neighborhood Commercial Office District;
C-2, General Commercial District;
M-1, Industrial District;
M-2, Salvage Yard District.

62.10 ZONING DISTRICT BOUNDARIES. Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the centerlines of streets, highways, alleys, or other public rights-of-way shall be construed to follow such centerlines.
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
3. Boundaries indicated as approximately following City limits shall be construed as following City limits.
4. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.
5. Boundaries indicated as following section lines, quarter section lines, or quarter-quarter section lines of the original federal survey shall be construed as following such lines.
6. Boundaries not capable of being determined in the other subsections of this section shall be as dimensioned on the official zoning map or if not dimensioned shall be determined by the scale shown on the map.

62.11 ANNEXATIONS. All territory which may hereafter be annexed to the City shall be considered as lying in the A-1 Agricultural Holding District, until such classification shall have been changed by amendment in accordance with the provisions of this chapter and the Comprehensive Plan map.

62.12 A-1 DISTRICT -- AGRICULTURAL HOLDING DISTRICT. The A-1 District is intended and designed to maintain larger lot holdings for future development, while allowing certain agricultural and other appropriate interim uses until rezoning in accordance with the Comprehensive Plan map occurs. The A-1 District is subject to the following regulations:

1. **Permitted Uses.** Only the following uses of structures or land shall be permitted in the A-1 District:

- A. Agriculture and usual agricultural buildings and structures; but met including the raising of farm animals including dairying, animal and poultry husbandry, feed lots, or grain storage and drying facilities.
- B. One-family dwellings if permitted in the district ultimately to be applied to the area.
- C. Publicly owned parks, playgrounds and recreation areas if permitted in the district ultimately to be applied to the area.
- D. Private noncommercial recreational areas and centers including clubs and swimming pools if permitted in the district ultimately to be applied to the area.
- E. Greenhouses, if permitted in the district ultimately to be applied to the area.
- F. Uses of land or structures customarily incidental and subordinate to a principal permitted use, including the rental of a room and permanent or movable storage sheds.
- G. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- H. Home occupations.

2. **Minimum Requirements.** The following minimum requirements shall be, observed in the A-1 District:

- A. **Lot Area:** dwellings and other permanent structures where connected to public sewer and water, as set forth in the district ultimately to be applied to the area; where not connected, as required by the Iowa Department of Natural Resources. All new land divisions shall have ten-acre minimum lot area.
- B. **Lot Width, Front Yard, Side Yard:** dwellings and other permanent structures, as set forth in the districts ultimately to be applied to the area.
- C. **Rear Yard:** as set forth in the districts ultimately to be applied to the area.
- D. **Maximum Height:** as set forth in the districts ultimately to be applied to the area.
- E. **Solar Access:** No structure or improvements to an existing structure shall be situated so that it shades an adjacent residence in a significant way, or interferes significantly in the use of solar devices.

3. **Other Standards.** All uses shall meet the parking, design and sign standards of this chapter.

62.13 R-2 DISTRICT - SINGLE-FAMILY AND DUPLEX RESIDENTIAL DISTRICT.

The R-2 District is intended and designed for certain medium density residential areas of the City now developed with single-family and duplex residences and areas where similar residential development is appropriate. The R-2 District is subject to the following regulations:

1. **Permitted Uses.** Only the following uses of structures or land shall be permitted

in the R-2 District:

- A. Duplex residences.
- B. Bed and breakfast establishment.
- C. Single-family dwellings.
- D. Publicly owned parks, playgrounds and recreation areas.
- E. Uses of land or structures customarily incidental and subordinate to a permitted principal use, including the rental of a room and permanent or movable storage shed.
- F. Home occupations.
- G. Agricultural uses, provided that no sense of odors or dust are created; provided, however, that no agricultural uses are permitted on platted lots with water and/or sewer connections except gardens established for the primary use of the property owner.
- H. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.
- I. Temporary use of a dwelling structure within a new subdivision as a job office and real estate office for the subject subdivision, which use shall terminate upon completion or abandonment of the project.
- J. Manufactured homes, provided:
 - (1) The manufactured home is installed upon a permanent foundation system that is compatible with the site and the structure and is visually compatible with surrounding residential structures.
 - (2) If 50% or more of the residential structures within 300 feet of the lot on which a manufactured home is to be erected have a basement or cellar, the visually compatible permanent foundation is a basement or cellar.
 - (3) If the permanent foundation system is a pier footing foundation, the open space between the bottom of the floor of the manufactured home and the grade level shall be completely enclosed by skirting of a permanent type material and construction at the time of installation of the manufactured home.
- B. School buildings used for accredited educational purposes.
- C. Places of worship.

2. Bulk Regulations. The following minimum requirements shall be observed in the R-2 District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height
single-family dwelling: 6,000 square feet duplex: 9,000 square feet ¹	single-family dwelling: 60 feet duplex: 80 ft.	25 feet	7 ft. each side ²	25 feet	principal building: 35 feet accessory building: 20 feet
1- For preexisting nonconforming lots, the minimum lot area shall be 6,000 feet for an unbuilt lot and any size for a built lot where the dwelling has been destroyed. 2- For detached building, 5 feet each side.					

3. **Solar Access.** No structure or improvement to an existing structure shall be situated so that it shades an adjacent residence in a significant way or interferes significantly in the use of solar devices.

4. **Other Standards.** All uses shall meet the parking, design and sign standards of this Code.

62.14 **R-3 DISTRICT -- MULTIFAMILY RESIDENTIAL DISTRICT.** The R-3 District is intended and designed for certain high density residential areas of the City developed with duplexes and multifamily dwellings, and areas where similar residential development is appropriate. The R-3 District is subject to the following regulations:

1. **Permitted Uses.** Only the following uses of structures or land are permitted in the R-3 District:

- A. Any use permitted in the R-2 District, with the exception of single-family dwellings.
- B. Multiple dwellings, including row dwellings, townhouses, condominiums and apartments. Row dwellings, townhouses and condominiums are to consist of not more than eight units in a continuous row per building.
- C. Boardinghouses and rooming houses.
- D. Nursing, convalescent and retirement homes.

2. **Bulk Regulations.** The following minimum requirements shall be observed in the R-3 District:

Minimum Lot Area	Minimum Lot Width	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height
duplex: 8400 square feet multi-family units: 9600 sq. ft. plus 2,000 sq. ft. for each dwelling unit over 2	duplex: 60 ft. multi-family units: 70 ft.	25 feet	7 feet ¹	25 feet	principal building: 45 feet accessory building: 20 feet
1-For detached building, 5 feet each side.					

3. **Solar Access:** No structure or improvement to an existing structure shall be situated so that it shades an adjacent residence in a significant way, or interferes significantly in the use of solar devices.

4. **Other Standards.**

- A. For multiple dwellings, common walls must meet the International Building Code.
- B. For row dwellings, townhouses and condominiums, zero lot lines may only occur in the vertical plane. Stacked units or zero lot lines in the horizontal plane are not allowed. Each unit must have a public accessible entrance.

- C. All interior private roadways shall be paved according to City standards for residential street pavement construction with a minimum pavement width of twenty-six (26) feet, measured back to back of curb.
- D. All meter banks, air conditioning units, transformer units, and trash collection areas shall be screened with sight obscuring fence or vegetation.
- E. Detached garage buildings shall not consist of more than sixteen (16) stalls per building, and usage shall be for dwelling unit tenants only.
- E. All uses shall meet the parking, design and sign standards of this chapter.

62.15 R-4 DISTRICT - MOBILE HOME RESIDENTIAL DISTRICT. The R-4 District is intended and designed to provide for certain medium density residential areas of the City now developed with mobile home parks, which by reason of their design and location are compatible with surrounding residential areas and areas where similar development is appropriate. The R-4 District is subject to the following regulations:

1. **Permitted Uses.** Only the following uses of structures or land shall be permitted in the R-4 District:

- A. Mobile homes, manufactured homes and modular homes.
- B. Common services buildings which provide laundry facilities, accessory buildings, park management buildings, community buildings, and other uses of land or structures customarily incidental to and subordinate to manufactured, mobile or modular homes.
- C. Home occupations.

2. **Minimum Requirements.** The following minimum requirements shall be observed for each mobile home park in the R-4 District:

- A. The minimum lot area of a mobile home shall be six-thousand (6,000) square feet and shall measure at least sixty (60) by one-hundred (100) feet.
- B. Manufactured, mobile and modular homes shall be located on each mobile home lot so that there will be at least a twenty-five (25) foot separation at the nearest point between each manufactured, mobile or modular home, a seven (7) foot open space between the manufactured, mobile or modular home including any permanently enclosed appendage and any driveway or walkway and a five (5) foot open space from the mobile home lot boundary; and a ten (10) foot open space at the rear of the manufactured, mobile or modular home.
- C. Land area for one or more recreation areas shall be provided for mobile home park residents. Land area for recreation areas shall be computed on the basis of two-hundred fifty (250) square feet of land for each mobile home lot in the park. Said two-hundred fifty (250) square feet shall not be considered as part of the six thousand (6,000) square-foot minimum mobile home lot size.
- D. The entrance road connecting the mobile home park roadways with the public streets shall have a minimum pavement width of thirty-one (31) feet, measured back to back of curb. All interior private roadways shall be paved construction with a minimum pavement width of twenty-six (26) feet, measured back to back of curb, and shall meet City specifications.
- E. If it exists, an open space between the grade level of the temporary or

permanent foundation and the bottom of the floor of a manufactured, mobile or modular home shall be completely covered and enclosed by skirting of a permanent type material and construction within sixty days. This skirting shall be maintained in an attractive manner consistent with the exterior of the manufactured, mobile or modular home to preserve the appearance of the mobile home park.

F. Sewer and water facilities shall be provided for each mobile home lot in accordance with the City and the State Department of Health requirements. All mobile home park developments must be connected to the municipal sanitary sewer and the municipal water systems.

G. All uses shall meet the parking, design, and sign standards of this chapter.

H. The maximum height of principal buildings and common facilities services buildings shall be thirty-five (35) feet; the maximum height of accessory shall be fifteen (15) feet.

I. Accessory buildings shall not be any closer than seven (7) feet to any modular, mobile or manufactured home or other accessory buildings; and accessory buildings shall not be closer than 7 feet and modular, mobile or manufactured homes shall not be closer than 5 feet from side lot lines and 10 from rear lot line.

J. The structure must contain a minimum of nine-hundred (900) square feet of living space.

K. The structure shall not be more than ten (10) years old from the date of the original construction or manufacture at the time of the application.

L. Within thirty (30) days of moving the mobile home or manufactured home onto the lot, it shall be converted to real estate for tax purposes by removing the tongue, wheels, and placing it on a permanent foundation. The vehicle license must be turned into the Story County Treasurer within the thirty (30) days of moving the home on the lot.

M. The permanent foundation must be a depth of at least forty-two (42) inches below undisturbed ground level and a minimum width of twelve (12) inches.

N. The structure must have tiedowns or anchors of a tensile strength of 2800 pounds and meet the requirements of the State of Iowa and federal government.

O. All mobile homes or manufactured homes must meet all federal standards for construction, air conditioning, heating, plumbing, wiring and foundation.

P. Each application must include a copy of the vehicle license, transmit permits from the Department of Transportation and a city moving transit permit, which are the mover's responsibility.

Q. Each structure shall be inspected before final approval is given to move onto the lot.

3. Park Plan Required. Each petition for a change to the R-4 zoning classification shall be accompanied by a mobile home park plan. Said plan shall show each mobile home, lot, the water, electrical and sewer lines serving each mobile home lot, the location of garbage receptacles, water hydrants, service buildings, private roadways, driveways, walkways, recreation areas, required yards, parking facilities, lighting and landscaping. The plan shall be considered by the Planning and Zoning Committee and the City Council, who may approve or disapprove said plan or require such changes thereto as are deemed necessary.

4. Compliance with Regulations. The City shall cause to be made such inspection and investigation necessary to determine that such mobile home park complies with all local ordinances, codes, and other regulatory measures applicable thereto, and is not in conflict with State law and regulations of the State Department of Health.

5. Sanitary and Water Facilities. No person shall construct, expand, remodel or make alterations to the sanitary and water facilities in a mobile home park within the City without first obtaining a permit therefore from the City. The application for such permit shall be filed with the City Clerk. All materials shall meet City specifications and construction methods for water and sanitary sewer systems.

6. Mobile Homes Outside of Mobile Home Parks. It is unlawful for any person to park any manufactured, mobile or modular home on the streets, alleys, highways, or any public place. It is unlawful to use or occupy a mobile home as a dwelling outside the mobile home park.

62.16 C-2 DISTRICT -- GENERAL COMMERCIAL DISTRICT. The C-2 District is intended and designed to provide for general retail and service commercial uses, in an efficient and compact manner. All of the following C-2 uses must have a store fronts 'The uses permitted are intended to accommodate both the needs of the resident consumer and the traveling consumer. The C-2 District is subject to the following regulations:

1. Permitted Uses. Only the following uses of structures or land shall be permitted in the C-2 District:

- A. Animal hospitals, veterinary clinics with indoor runs only;
- B. Antique shops;
- C. Art shops/studios;
- D. Automobile display/sales/new parts and, where in conjunction with sales, repair;
- E. Bakeries;
- F. Barber/beauty shops;
- G. Bookstores;
- H. Commercial amusements;
- I. Community facilities;
- J. Confectionery stores, including ice cream or snack bars;
- K. Dance studios;
- L. Department stores;
- M. Drugstores;
- N. Dry cleaning/laundry/laundrette;
- O. Fabric stores;
- P. Florist shops and greenhouses;
- Q. Funeral homes;
- R. Furniture stores;
- S. Gift shops;

- T. Government buildings and utilities;
- U Grocery stores, including supermarkets, health food stores, delicatessens, dairy stores;
- V. Hardware and dry goods stores;
- W. Hotels and motels;
- X. Household appliance stores;
- Y. Household living in conjunction with other permitted C-2 uses;
- Z. Jewelry stores and watch repair shops;
- AA. Key shops;
- BB. Leather goods stores;
- CC. Locker plants for storage and retail sales only;
- DD. Music stores/studios/record stores;
- EE. Office supply stores;
- FF. Paint and wallpaper stores;
- GG. Pet shops;
- HH. Photography stores/studios;
- II. Plumbing/heating/air conditioning shops;
- JJ. Preschools/child care centers;
- KK. Printing and photocopying shops;
- LL. Professional offices and clinics
- MM. Radio and television sales/repair shops;
- NN. Real estate, insurance and financial offices;
- 00. Service stations where pumps are at least 25 feet from street and at least 100 yards from a City well;
- PP. Restaurants and cafes;
- QQ. Sale and service of goods and products conducted entirely within the building. Limited manufacturing and processing of goods is allowed
- RR. Shoe and hat sales/repair shops;
- SS. Sporting good stores;
- IT. Tailor and dressmaking shops;
- UU. Taverns/nightclubs;
- VV. Toy stores;
- WW. Variety stores;
- XX. Video stores;
- YY. Wholesale display and sales rooms;
- ZZ. School buildings used for accredited educational purposes;
- AAA. Places of worship;
- BBB. A residence occupied by the owner or an employee of the commercial use and that is an integral part of or contiguous to the principal commercial structure;
- CCC. Storage of merchandise incidental to the principal use, but not to exceed forty percent of the floor area used for such use;
- DDD. Uses of land or structures customarily incidental and subordinate to a permitted principal use, unless otherwise excluded;
- EEE. Agricultural uses, provided that no offensive odors or dust are created.
- Any combination of the above listed uses;

FFF. Any uses determined by the Planning and Zoning Committee to be of a similar nature to the above listed uses.

2. **Accessory Uses.** Uses of land or structures customarily incidental and subordinate to a permitted use in the C-2 District including, but not limited to, the following:

a. Temporary buildings for the uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

b. Warehouse for storage of merchandise held for sale in the primary business.

3. **Bulk Regulations.** The following minimum requirements shall be observed in the C-2 District:

Minimum Lot Area	Minimum Front Yard	Minimum Side yard	Minimum Rear Yard	Maximum Height
6,000 square feet	5 feet	5 feet ¹	0 feet	principal building: 50 ft. accessory building: 20 ft.
1- Unless abutting a residential lot, then minimum side yard required is 15 feet. Animal hospitals, taverns and nightclubs shall have a 50-foot side yard from any adjacent "R" District.				

4. **Solar Access.** No structure or improvement to an existing structure shall be situated so that it shades an adjacent residence in a significant way, or interferes significantly in the use of solar devices.

5. **Other Standards.** All uses shall meet the parking, design and sign standards of this chapter. All buildings shall have permanent frost footings 42" deep under all walls, concrete floor, connected to city water service; and connected to sewer service.

62.17 **M-1 DISTRICT - LIGHT INDUSTRIAL DISTRICT.** The M-1 District is intended and designed to provide areas of the City suitable for uses of a light industrial nature. The M-1 District is subject to the following regulations:

1. **Permitted Uses.** Only the following uses of structures or land shall be permitted in the M-1 District:

A. Any use permitted in the C-2 District, except the following unless by special permit:

(1) School buildings used for accredited educational purposes;

(2) Places of worship.

B. Animal hospitals, kennels and pounds, outdoor runs;

C. Automobile and farm implement sales, repair, paint and body shops;

D. Bottling, creamery, ice manufacture, cold storage;

E. Broadcasting;

F. Compounding of drugs, cosmetics;

G. Contractors shops;

H. Laboratories: research, experimental and testing;

- I. Lumber and building material yards;
- J. Machine, metal, welding, repair, tool and die shops;
- K. Manufacture, assembly, processing, packaging or other comparable treatment of the following:
 - (1) Bakery goods,
 - (2) Cameras and other photographic equipment,
 - (3) Electronic parts, instruments and devices of a small nature,
 - (4) Musical instruments, toys and novelties,
 - (5) Pottery, brick and clay products,
 - (6) Products from the previously prepared materials: bone, canvas, cellophane, cloth, rope, cord, twine, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, cardboard, plastics, natural and synthetic rubber, precious or semi-precious metals or stones, shells, textiles, tobacco, wax, wood, yarns, light metal mesh, pipe, rods, strips or wire,
 - (7) Small precision instruments, including medical and drafting instruments;
- L. Printing and bookbinding;
- M. Public utilities;
- N. Rental storage, no Class B flammable liquids or explosives allowed;
- O. Rug cleaning/dyeing;
- P. Temporary buildings in conjunction with construction work provided that such buildings are removed promptly upon completion of the construction work;
- Q. Uses and structures clearly incidental and necessary to the principal permitted uses of the structures of this district;
- R. Wholesaling and warehousing uses, but not including the bulk storage of anhydrous ammonia or petroleum products under pressure.

All uses shall be wholly contained within a building, except for animal hospital, kennel and pound outdoor runs, automobile and farm implement display areas, lumber and building material yards, public utilities and truck and freight terminals. No use shall be permitted to be established which, in the judgment of the Planning and Zoning Committee, by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke, cinders, gas fumes, noises, vibrations, refuse matter or water-carried waste. There shall be no underground storage or dumping of flammable or toxic substances. All proposed uses shall demonstrate the adequate availability of water to meet anticipated needs prior to approval.

2. Bulk Regulations. The following minimum requirements shall be observed in the C-2 District.

Minimum Lot Area	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height
6,000 square feet	25 feet	10 feet ¹	10 feet ²	principal building: 45 ft. 3 accessory building: 30 ft.

1- Except when adjacent to an R- C-2 District, in which case minimum side yard shall be 50 feet.
 2- Except when adjacent to an R or C-2 District, in which case the minimum rear yard shall be 50 feet.

3. **Solar Access:** No structure or improvement to an existing structure shall be situated so that it shades an adjacent residence in a significant way, or interferes significantly in the use of solar devices.

4. **Other Standards.** All uses shall meet the parking, design and sign standards of this chapter.

62.18 **M-2 DISTRICT - HEAVY INDUSTRIAL DISTRICT.** The M-2 District is intended and designed to provide areas of the City suitable for uses of a heavy industrial nature. The M-2 District is subject to the following regulations:

1. **Permitted Uses.** Only the following uses of structures or land shall be permitted in the M-2 District:

- a. Lumber yard
- b. Machine, metal, welding, repair, tool and die shops;
- c. Manufacture, assembly, processing, packaging or other comparable treatment of the following:
 - i. Pottery, brick and clay products.
 - ii. All other raw products.
- d. Salvage yards.
- E. Truck and freight terminal/repair.

2. **Bulk Regulations.** The following minimum requirements shall be observed in the M-1 District:

Minimum Lot Area	Minimum Front Yard	Minimum Side Yard	Minimum Rear Yard	Maximum Height
6,000 square feet	25 feet	10 feet ¹	10 feet ²	principal building: 45 ft. 3 accessory building: 30 ft.
1 - Except when adjacent to an R or C-2 District, in which case minimum side yard shall be 50 feet. 2 - Except when adjacent to an R or G2 District, in which case the minimum rear yard shall be 50 feet.				

3. **Solar Access:** No structure or improvement to an existing structure shall be situated so that it shades an adjacent residence in a significant way, or interferes significantly in the use of solar devices.

4. **Other Standards.** All uses shall meet the parking, design and sign standards of this chapter.

62.19 **SUPPLEMENTARY DISTRICT REGULATIONS.**

1. **Home Occupation.** An occupation conducted in a dwelling unit, provided that:

- A. No more than one (1) person, other than member s of the family residing on

the premises, shall be engaged at any one time in such occupation, except by special exception by the City Council.

B. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than thirty (30%) of the gross floor area in the dwelling unit shall be used in the conduct of the home occupation. Any extension of the home occupation beyond thirty (30) percent of the gross floor area of the dwelling unit shall only be approved by special exception of the City Council. If a special exception is granted, the gross floor area shall not exceed fifty (50%) percent.

C. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one (1) sign, meeting the requirements of chapter 70, Sign Regulations.

D. No home occupation may be conducted in any accessory building, except by special exception of the City Council.

E. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met by providing off-street parking and shall not be in a required front yard.

F. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling unit if conducted in other than a single-family residence. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.

2. **Proposed Use not Covered in this Zoning Code.** Any proposed use not covered in this Zoning Code as permitted use or special exception shall be referred to the commission for a recommendation as to the proper district in which such use should be permitted and the Zoning Code amended before a permit is issued for such a proposed use.

3. **Loading.** All businesses except those in a C-2 District shall provide adequate off-street loading for all vehicles so that no public thoroughfare will be blocked at any time.

4. **Building Lines on Approved Plats.** Whenever the plat of a land subdivision approved by the Planning Commission and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback.

4. **Structures to Have Access.** Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private roadway, and

all structures shall be so located on lots as to provide safe and convenient access for servicing, fire protection, and required off-street parking.

5. Erection of More Than One Principal Structure on a Lot. Multi-family dwellings on a single lot of record or on adjoining lots under the same ownership shall not be subject to minimum lot width requirements provided, however, all dwellings are a minimum sixteen feet in distance from each other.

6. Accessory Buildings. For residential districts, no accessory building may be erected in any required front yard and no separate accessory building may be erected within five feet of a main building. No accessory building shall be closer than five (5) feet to the rear lot line unless abutting an alley. The Board of Adjustment may allow the placement of any accessory building no closer than three (3) feet from a property line, as a Special Exception in accordance with the provisions of Zoning Code. . Accessory buildings located in the rear yard may not occupy more than thirty percent (30%) of the rear yard. Accessory garages which are entered directly from the alley shall be at least fifteen (15) feet from the alley right-of-way. Except for storage, no accessory building shall be used without occupancy of the principal building. In such cases of storage use, there shall be no fee charged.

a. This provision of the Zoning Code shall not apply to a small utility building which is readily moveable, and not permanently attached to the ground, the building must be less than seven (7) feet and six (6) inches in height to the highest point on the roof line, the building must confine an area of less than one-hundred (100) square feet, and the building shall not be located in any front yard.

7. Sills, belt courses, cornices, and ornamental features may project only two feet into a required yard.

8. Open fire escapes, above-ground outside stairways and balconies into a rear or side yard for a distance of not more than three and a half (3½) feet when so placed as not to obstruct light and ventilation, may be permitted by the Planning and Zoning Committee. Chimney flues are allowed to project into rear yards not more than three and a half (3½) feet.

9. Nothing in this chapter shall have the effect of prohibiting **utility service lines**.

10. Private swimming pools, as defined in this chapter, shall be allowed only in rear yards and shall not be allowed in front or side yards.

62.20 UNREGISTERED VEHICLES. Automotive vehicles or trailers of any kind or type without current license plates shall be parked or stored in a completely enclosed building, except where otherwise permitted by this chapter.

62.21 MOBILE HOME RESIDENCY; RECREATIONAL VEHICLES. No person shall occupy any mobile home residence on any premises in the City except as provided for by this chapter. The temporary parking of an occupied recreational vehicle for a period not to exceed ten consecutive days on any premises, and the permanent parking or storage

of an unoccupied travel trailer in an accessory garage, other accessory building, side or rear yard or driveway shall be permitted, provided that no living quarters shall be maintained and no business conducted in such vehicle while parked or stored and provided that no front yard shall be occupied by such vehicle.

62.22 LOCATION OF ADULT USE ESTABLISHMENTS. No adult use establishment shall be located within the city limits.

62.23 FENCES AND WALLS.

1. **Side and Rear Yards.** No fence or wall shall exceed six (6) feet in height except in M-1 and R-4 Districts, where fences may be eight (8) feet in height.
2. **Front Yards.** No fence or wall shall exceed four feet in height within a front yard.
3. **Retaining Walls.** When a wall is a retaining wall or supporting embankment, only that part of the wall above the highest ground level shall be subject to the maximum height requirements under this section,
4. **Corner Lots.** In any district, the maximum height of a fence, wall, structure or foliage within a radius of twenty (20) feet from the corner of the property lines at the intersection of two or more streets shall not exceed three feet.
5. **Exterior Finish.** The exterior side of a fence shall be of a finished quality. The term "finished quality" includes but is not limited to placement of supporting poles on the interior side of the fence. The term "finished quality" does not mean that a fence must be painted.

62.24 AMENDMENTS. The regulations imposed and districts created by this chapter may, from time to time, be amended, supplemented, changed, modified or repealed as follows:

1. **Initiation.** The Council may act on its own initiative, with or without prior citizen request, to amend this chapter. Any interested citizen, including the owner of record title or of equitable title to affected property, may petition for amendment of this chapter.
2. **Form of Petition.** A petition to amend this chapter shall state (i) the legal description of the affected property, (ii) the street address of the affected property, (iii) the existing and proposed designation or regulation, (iv) a concise statement of the purpose of the amendment, and (v) the names and addresses of the owners of record and equitable title located within 200 feet of the boundary of the affected property. A petition shall be dated and signed by its sponsor.
3. **Review of Proposed Amendment.** Within 30 days of receipt by the City, the

Commission shall review a petition for amendment and report its recommendations to the Council. The Council may refer self-initiated amendments to the Commission for consideration upon such conditions as it may direct.

5. Notice and Hearing. If the Council resolves to consider for passage a proposed amendment to this chapter, the Council shall set a time and date for hearing upon the proposed amendment. Notice of the hearing describing the affected property and purpose of the hearing shall be published at least once not less than seven or more than 20 days prior to the hearing date, but not earlier than the next regularly scheduled Council meeting following the date notice is published. The Clerk shall send notice of the hearing by ordinary mail to owners of property within 200 feet of the boundaries of the affected property.

6. Protest. Protest of a proposed amendment must be in writing submitted to the Council before or at the public hearing on the proposed amendment. If 20% or more of the owners of property within two hundred feet of the boundaries of the affected property file a written protest, the proposed amendment shall not be effective unless three-fourths of the Council members vote in favor of the proposed amendment.

7. Action by Council. The Council shall not be required to act upon a proposed amendment. At any time prior to a hearing on a proposed amendment, the Council may either act unfavorably on the proposed amendment or take no action. After a hearing, the Council may act either favorably or unfavorably on the proposed amendment or take no action. If the Council acts unfavorably on the proposed amendment, no petition that is substantially the same as the proposed amendment rejected, shall be submitted for one year after the unfavorable action. Nothing herein shall prevent the Council from acting on its own initiative.

8. Costs. The sponsor of a petition for amendment of this chapter shall be liable to the City for the reasonable costs of amending this chapter, including but not limited to the cost of publication of notice, and, unless waived by the Council, shall pay such cost at the office of the Clerk upon demand or shall pay such fee as the Council may prescribe by ordinance.

9. Additional Notices; Signs. Any person who requests a land use plan amendment or rezoning of property shall cause to be erected at all of the street frontages of the property a notification sign, stating a notification message as prescribed by City staff, and intended to inform the public of the proposed change and the time and place of the hearing on said change. Notification signage will be black letters on a white sign board and will be installed in accordance with the following minimum stand:

Speed Limit	Lettering	Number of Signs on Each Street Frontage	Minimum Size
20-35 MPH	3 inches	One per 300'	2' x 2'
36 MPH & greater	6 inches	One per 1,000'	4' x 8'

Such signs shall be erected no less than seven days before the hearing before the Plan and Zoning Commission and shall remain in place until the final hearing before the City Council. It shall be the responsibility of the property owner to ensure that the signs are erected and maintained to be visible from the street rights-of-way in accordance with the provisions of this section. The failure on the part of the property owner to erect and maintain the signs may be considered by the Commission and Council, along with all other facts and circumstances, in determining whether the request for rezoning shall be granted. The property owner shall remove the signage within seven days of the date of the final action on the rezoning or land use plan amendment by the City Council. Any person who removes a sign erected by the property owner, without the property owner's consent, shall be guilty of a misdemeanor.

62.45 VIOLATION. Each day a violation of this chapter continues shall be considered a separate offense. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section. Nothing in this section shall prevent the City from taking any other lawful action as is necessary to prevent or remedy any violation.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 64

NONCONFORMING USES AND STRUCTURES

SECTION 1. Non-conformities. Within the districts established by these regulations or amendments that may later be adopted, there exist lots, structures and uses of land and structures which were lawful before the zoning ordinance was passed or amended, but which would be prohibited, regulated, or restricted under the terms of these regulations or future amendment. Subject to Chapter 63 of the zoning ordinance it is the intent of these regulations to permit these non-conformities to continue until they are removed but not to encourage their survival. Such uses are declared by these regulations to be incompatible with permitted uses in the districts involved. It is further the intent of these regulations that non-conformities shall not be enlarged upon, expanded, or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

SECTION 2. Additional Signs. A nonconforming use of land, or a nonconforming use of a structure and land shall not be extended or enlarged after passage of these regulations by attachment on a building or premises of additional signs intended to be seen from off the premises, or by the addition of other uses of a nature which would be prohibited generally in the district involved.

SECTION 3. Construction Begun. To avoid undue hardship, nothing in these regulations shall be deemed to require a change in the plans, construction, or designated use of any building on which the actual construction was lawfully begun prior to the effective date of adoption or amendment of these regulations and upon which actual building construction has been diligently carried on. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner; except that where demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such demolition or removal shall be deemed to be actual construction, provided that work shall be diligently carried on until completion of the building involved.

SECTION 4. Nonconforming Lots of Record. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date or adoption or amendment of these regulations. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width or both that are generally applicable in the district, provided that yard dimensions and other requirements not involving area or width or both, of the lot shall conform to the regulations for the district in which such lot is located. Variance of area, width, and yard requirements shall be obtained only through action of the board. If two (2) or more lots or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the time of passage or amendment of these regulations, and if all or part of the lots do not meet the requirements for the lot width and area as established by this chapter, the land involved shall be considered to be an undivided parcel

for the purpose of these regulations and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by these regulations, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this chapter.

SECTION 5. Nonconforming Uses of Land. Where, at the effective date of adoption or amendment of these regulations, lawful use of land exists that is made no longer permissible under the terms of these regulations as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

1. Enlargement of Land Area. No such nonconforming use shall be enlarged or increased nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of these regulations.

2. Moving of Nonconforming Use. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of these regulations.

3. Discontinuance. If any such nonconforming use of land ceases for any reason for a period of more than six (6) months, any subsequent use for such land shall conform to these regulations for the district in which such land is located.

4. Amortization. All nonconforming junk yards, storage yards, and other nonconforming uses of open land not involving a substantial investment in permanent buildings shall be removed or made to conform to the provisions herein within three (3) years after the adoption of these regulations.

SECTION 6. Nonconforming Structures. Where a lawful structure exists at the effective date of adoption or amendment of these regulations that could not be built under the terms of these regulations by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Enlargement of Alteration of Nonconforming Structure. No such structure may be enlarged or altered in a way which increases its nonconformity.

2. Destruction of Nonconforming Structure. Should such structure be destroyed by any means to an extent of more than fifty (50) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with these regulations.

SECTION 7. Nonconforming Uses of Structures. If a lawful use of a structure, or of structure and premises in combination, exists at the effective date of adoption or amendment of these regulations, that would not be allowed in the district under the terms of these regulations, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. Change of Nonconforming Structure. No existing structure devoted to a use not permitted by these regulations in the district in which it is located shall be enlarged, extended, constructed, reconstructed, moved or structurally altered except in changing the use of the structure to a use permitted in the district in which it is located.

2. Enlargement of Nonconforming Use. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of these regulations, but not such use shall be extended to occupy any land outside such building.

3. Change to Another Nonconforming Use. If no structural alterations are made, any nonconforming use of a structure or structure and premises, may be changed to another nonconforming use provided that the board either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the board may require appropriate conditions and safeguards in accord with these regulations.

4. Change to Permitted Use. Any structure, or structure and land in combination, in or on which a nonconforming use as superseded by a permitted use, shall thereafter conform to the regulations for the district in which such structure is located, and the nonconforming use may not thereafter be resumed.

5. Discontinuance. When a nonconforming use of a structure, or structure and premises in combination, is discontinued or abandoned for six (6) consecutive months or for eighteen (18) months during any three (3) year period, the structure,

thereafter shall not be used except in conformance with the regulations of the district in which it is located.

6. Removal or Destruction. Where nonconforming use status applied to a structure and premises in combination, removal, or destruction of the structure shall eliminate the nonconforming status of the land.

SECTION 8. Repairs and Maintenance. On any building devoted in whole or in part to any nonconforming use, work may be done in any period of twelve (12) consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement value of the building provided that the cubic content of the building as it existed at the time of the passage or amendment of these regulations shall not be increased. Nothing in these regulations shall be deemed to prevent the strengthening of or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

SECTION 9. Nonconforming Uses to Register. The owner or operator of any use of land or use of a structure, or use of land and structure in combination, which shall become nonconforming on the effective date of these regulations shall complete and file with the Zoning

Commission a nonconforming use registration form, describing the use, the nature of its nonconformity and the area of land or structure occupied on said date.

SECTION 10. Uses Under Exception Provisions Not Nonconforming Uses. Any use for which a special exception is permitted as provided in these regulations shall not be deemed a nonconforming use, but shall, without further action, be deemed a conforming use in such district.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 65

ADMINISTRATION

SECTION 1. Administration and Enforcement. An Administrative Officer appointed by the Council shall administer and enforce these regulations. He or she may be provided with the assistance of such other persons as the Council may direct.

If the Administrative Officer shall find that any of these regulations are being violated, he or she shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He or she shall order discontinuance of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by these regulations to insure compliance with or to prevent violation of its provisions.

SECTION 2. Appeals From Decision of Administrative Officer. Appeals from any decision of the Administrative Officer may be taken to the Board as provided in Section 10.

SECTION 3. Separate Offenses May be Charged. The owners, or tenant of any building, structure, land, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains a violation of these regulations may each be charged with a separate offense and upon conviction suffer the penalties provided.

SECTION 4. Other Remedies. If any building or structure is erected, constructed, reconstructed, altered, repaired, or land is used in violation of these regulations, the City may, in addition to other remedies, institute injunction, mandamus, or other appropriate lawful action necessary to prevent, correct, or abate such violation.

SECTION 5. Board of Adjustment Created. A Board of Adjustment is hereby established. The Board shall consist of five (5) members to be appointed by the Council for a term of five (5) years except that when the Board shall first be created one (1) member shall be appointed for a term of five (5) years; one (1) for a term of four (4) years; one (1) for a term of three (3) years; one (1) for a term of two (2) years; and one for a term of one (1) year. Members of the Board may be removed from office by the Council for cause upon written charges and after public hearing. Vacancies shall be filled by the Council for the unexpired term of the member.

SECTION 6. Proceedings of Board of Adjustment. The Board shall adopt rules necessary to the conduct of its affairs, and in keeping with these regulations. Meetings shall be held at the call of the chairperson and at such other times as the Board may determine. The chairperson, or in his or her absence the acting chairperson, may administer oaths and compel attendance of witnesses. All meetings shall be open to the public. The Board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the Board.

SECTION 7. Hearings, Appeals, Notice. Appeals to the Board concerning interpretation or administration of these regulations may be taken by any person aggrieved or by any officer of bureau of the governing body of the City affected by any decision of the Administrative Official. Such appeals shall be taken within a reasonable time not to exceed sixty (60) days of filing with the Administrative Official and with the Board a notice of appeal specifying the grounds thereof. The Administrative Official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from was taken. The Board shall fix a reasonable time for the hearing of appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. A fee of fifteen (15) dollars shall be paid to the Administrative Officer at the time the notice of appeal is filed, which the Administrative Officer shall forthwith pay over to the credit of the general revenue fund of the City. Applicant shall pay all costs of publication and the service of notice.

SECTION 8. Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board after the notice of appeal is filed with him or her, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life and property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the Board or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.

SECTION 9. Board of Adjustment: Powers and Duties. The Board shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of these regulations.

2. Special Exceptions: Conditions Governing Applications and Procedures. To hear and decide only such special exceptions as the Board is specifically authorized to pass on by the terms of these regulations to decide such questions as are involved in determining whether special exceptions should be granted; and to grant special exceptions with such conditions and safeguards as are appropriate under these regulations, and to deny special exceptions when not in harmony with the purpose and intent of these regulations. A special exception shall not be granted by the Board unless and until:

A. A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

B. Notice shall be given at least fifteen (15) days in advance of the public hearing by posting notice as required by Title I, Chapter 4, of the City Code of McCallsburg.

C. The public hearing shall be held. Any party may appear in person or by agent or attorney.

D. The Board shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception, and that the granting of the special exception will not adversely affect the public interest. In granting any special exception, the Board may prescribe appropriate conditions and safeguards in conformity with these regulations. Violations of such conditions and safeguards, when made a part of the terms under the special exception is granted, shall be deemed a violation of these regulations. The Board shall prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete, or both, such action within the time limit set shall be void the special exception.

3. Variances: Conditions Governing Application: Procedures. To authorize upon appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest where, owing to the special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of these regulations shall not be granted by the Board unless or until:

A. A written application for a variance is submitted demonstrating:

a. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.

b. That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter.

c. That the special conditions and circumstances do not result from the actions of the applicant.

d. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district. Non-conforming use of neighboring lands, structures, or buildings in the same district, and not permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given as in Paragraph b, Subsection 2 of Section 13.

C. The public hearing shall be held. Any party may appear in person, or by agent or attorney.

D. The Board shall make findings that the requirements of Paragraph a, Subsection 2 of Section 13 have been met by the applicant for a variance.

E. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of land, building, or structure.

F. The Board shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with these regulations. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.

SECTION 10. Decisions of the Board of Adjustment. In exercising the above mentioned powers, the Board may, so long as such action is in conformity with the terms of these regulations reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have powers of the administrative official from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter.

SECTION 11. Appeals from the Board of Adjustment. Any person or persons, or any Board, taxpayer, department, Board, or bureau of the City aggrieved by any decision of the Board may seek review by the court of record of such decision, in the manner provided by the laws of the State and particularly by Chapter 414, Code of Iowa.

SECTION 12. Changes and Amendments. The regulations imposed on the districts created by this chapter may be amended from time to time by the Council but such amendments shall not be made without public hearing before the Council and after a report has been made upon the amendment by the Commission. At least fifteen (15) days notice of the time and place of such hearing shall be posted as required by Title I, Chapter 4 of the City Code of McCallsburg. In case the Commission does not approve the change or, in the case of a protest filed with the Council against a change in district boundaries signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change, or of those immediately adjacent thereto and within the two hundred (200) feet of the boundaries thereof, such amendment shall not be passed except by the favorable vote of three fourths (3/4) of all the members of the Council. Amendments need only refer to the legally described land involved and need not refer to the code section to be valid. Such referral only to the legal description will not invalidate the map or this chapter other than to change the zoning of the land described.

SECTION 13. Application for Change of Zoning District Boundaries. Any person may submit to the Council an application requesting a change in the zoning district boundaries as shown on the official zoning district map. Such application shall be filed with the Administrative Officer accompanied by a fee of fifty (\$50) dollars and shall contain the following information:

1. Legal Description and Address. The legal description and local address of the property.

2. Present and Proposed Zoning. The present zoning classification and the zoning classification requested for the property.

3. Existing and proposed Use. The existing use and proposed use of the property.

4. Names and Addresses of Surrounding Property Owners. The names and addresses of the owners of all property within two hundred (200) feet of the property for which the change is requested.

5. Reasons for Requesting Change. A statement of the reasons why the applicant feels the present zoning classifications is no longer valid.

6. Plat Required. A plat showing the locations, dimensions, and use of the applicant's property and all property within two hundred (200) feet thereof, including streets, alleys, railroads, and other physical features. All fees shall be deposited to the general revenue fund of the City. Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 66

SUBDIVISION REGULATIONS
PLATTING PROCEDURES AND PLAT REQUIREMENTS

SECTION 1. Preliminary Platting Procedure. Preliminary platting procedure is as follows:

1. Preliminary Plat Filed. The owner or developer of any tract of land to be subdivided shall cause a preliminary plat to be prepared, a plat of the subdivision containing the information specified herein and shall file seven (7) copies of the plat with the City Clerk.

2. Review. The City Clerk shall immediately transmit three (3) copies of the preliminary plat to the Planning Commission and one (1) copy of the plat each to the electric utility, gas utility, and telephone company requesting their review of the plan regarding utility locations and easements and to submit their findings to the commission within fifteen (15) days thereof.

The City Clerk shall also transmit one (1) copy of the plat to the City Engineer or consulting engineer acting in that capacity. The engineer shall examine the plat as to its compliance with the laws and regulations of the City, the existing street system, sewer, water, and storm drainage provisions, and good engineering practices and shall within fifteen (15) days of receipt thereof, submit his or her findings and recommendations to the commission.

3. Planning and Zoning Commission. The commission shall consider the findings and recommendations of the utility companies and engineer and examine the plat as to its compliance with these Subdivision Regulations and the comprehensive plan of the City. The commission shall within forty-five (45) days after receipt of the plat submit a recommendation to the City Council provided that the owner or developer may agree to an extension of time not to exceed sixty (60) days. One (1) copy of the plat and recommendations shall be forwarded to the Council, one (1) copy to the owner or developer and one (1) copy placed in the commission's files.

4. City Council. The City Council, upon receipt of the commission's recommendation or after forty-five (45) days from the date of referral to the planning commission or any approved extension thereof shall have passed, shall by resolution grant approval of or reject the preliminary plat.

If the preliminary plat is rejected, the City Council will advise the owner or developer of any changes which are desired or should have consideration before approval will be given. Approval of the preliminary plat by the City Council shall constitute approval to proceed with the preparation of the final plat but shall not be deemed approval of the subdivision.

SECTION 2. Final Platting Procedure. The final platting procedure is as follows:

1. Final Plat Submitted. A final plat shall be submitted within eighteen (18) months of the approval of the preliminary plat, or such approval shall expire and the preliminary plat shall be resubmitted for approval prior to preparation of a final plat.

2. Procedure. Procedures for final plats shall be in the same as set out for preliminary plats in Section 1 above except the original tracing of the plat shall also be submitted.

3. Approval. Upon approval of the final plat, a certification of approval signed by the Mayor and attested by the City Clerk shall be affixed to the original tracing of the final plat and copies of the same filed with the City Clerk, County Auditor, and County Recorder along with such other certifications and instruments as may be required by law.

SECTION 3. Plats Outside Corporate Limits. Procedure for approval of preliminary and final plats of land within two (2) miles of the corporate limits shall be the same as set out in Section 1, Subsection 1 and Section 1, Subsection 2 above, except that nine (9) copies of the plat shall be filed with the City Clerk and the City Clerk shall in addition refer one (1) copy to the County Engineer and one (1) copy to the County Planning and Zoning Commission and request their recommendations to be submitted to the Planning and Zoning Commission. The Planning and Zoning Commission shall have forty-five (45) days in which to take action on the plat but shall not act prior to receiving the recommendations of the County Planning and Zoning Commission provided that such recommendations shall be received within fifteen (15) days of referral.

SECTION 4. Professional Assistance. The City Council and the Planning and Zoning Commission may request such professional assistance as they deem necessary to properly evaluate the plats as submitted.

SECTION 5. Preliminary Plat Requirements. The preliminary plat shall contain the following information:

1. Location Map. A location map showing:

- A. The subdivision name.
- B. An outline of the area to be subdivided.
- C. The existing streets and public or community utilities, if any, on adjoining property.
- D. North point and scale.

2. Preliminary Plat District. A preliminary plat of the subdivision drawn to the scale of fifty (50) feet to one inch provided that if the resulting drawings would be over twenty-four inches (24) in the shortest dimension, a scale of one hundred feet (100) to one inch (1) may be used, said preliminary plat to show:

- A. Legal description, acreage, and name of proposed subdivision.

- B. Name and address of the owners.
- C. Name of person who prepared the plat, and the date thereof.
- D. Location of existing lot lines, streets, public utilities, water mains, fire hydrants, sewers, drain pipes, culverts, water courses, bridges, railroads, and buildings in the proposed subdivision.
- E. Location and widths, other dimensions and names of the proposed streets, utility easements and other open spaces or reserved areas.
- F. Names of adjacent property owners.
- G. Tract boundary lines showing dimensions, bearings, angles, and references to known lines or bench marks.
- H. Layout of proposed blocks (if used) and lots, including the dimensions of each and the lot and block number in numerical order.
- I. A statement concerning the location and approximate size or capacity of utilities proposed to be installed.
- J. Contours at vertical intervals of not more than two feet (2') if the general slope of the site is less than ten (10) percent and at vertical intervals of not more than five feet (5') if the general slope is ten (10) percent or greater.
- K. The grade, type, material, dimensions, and design of proposed streets.
- L. Proposed building lines.
- M. A cross-section of the proposed streets showing the roadway location, the type and width of surfacing, type of drainage, and other improvements to be installed.
- N. The location of proposed wells and/or water mains and sewage disposal system if a public or community system is used.
- O. The drainage of the land including proposed storm sewers, ditches, culverts, bridges, and other structures inside the proposed subdivision and all lands affected by the drainage outside of the subdivision.
- P. North point and graphic scale.
- Q. Layout of lots showing approximate dimensions and number.

SECTION 6. Final Plat Requirements. The final plat shall meet the following specifications:

1. Area Included. It may include all or only part of the preliminary plat.

2. Scale. The plat shall be drawn to the scale of fifty (50) feet to one (1) inch, provided that if the resulting drawing would be over thirty-six (36) inches in shortest dimension, a scale of one hundred (100) feet to one (1) inch may be used.

3. Content. The final plat shall contain the following:

A. Accurate boundary lines with dimensions and angles which provide a survey of the tract closing with an error of not more than one (1) foot in three thousand (3,000) feet.

B. Accurate references to known or permanent monuments

giving the bearing and distance from some corner of a congressional division of Story County, Iowa, of which the subdivision is a part.

C. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.

D. Accurate metes and bounds description of the boundary.

E. Street names.

F. Complete curve notes for all curves included in the plat.

G. Street right-of-way lines with accurate dimensions in feet and hundredths of feet with angles to right-of-way lines and lot lines.

H. Lot numbers and dimensions.

I. Block numbers, if blocks are used.

J. Accurate dimensions for any property to be dedicated or reserved for public, semi-public or community use.

K. Building lines and dimensions.

L. Location, type, material, and size of all monuments and markers.

M. Name of the subdivision

N. Name and address of owner and subdivider.

O. North point, scale, and date.

P. Certification by a registered land surveyor of the State.

Q. Certification of dedication of streets and other public property.

R. Resolution and certificate for approval by the City Council and signatures of the Mayor and City Clerk.

4. Accompanying Instruments. The final plat shall be accompanied by the following instruments:

A. A certified statement from the owner and the owner's spouse, if any, that the subdivision as it appears on the plat is with their free consent and is in accordance with the desires of the proprietor and spouse.

B. A certificate bearing the approval of the City Council stating that all improvements and installations in the subdivision required by this chapter have been made or installed in accordance with the City specifications.

C. A surety bond with the City which will insure the City that the improvements will be completed by the subdivider or property owner within two (2) years after the official acceptance of the plat. The form and type of bond shall be approved by the City Attorney and the amount of the bond shall not be less than the amount of the estimated cost of the improvements plus ten (10) percent and the amount of the estimate must be approved by the City Council. If the improvements are not completed within the specified time, the City Council may use the bond or any necessary portion thereof to complete the same.

D. A petition by the developer to the City Council to provide the necessary improvements and to assess the costs thereof against the subdivided property in accordance with the requirements regarding special assessments, provided, however, that the subdivider or property owners shall furnish necessary waivers to permit the assessment of the entire cost of the improvement plus the necessary and reasonable costs of the assessment proceedings against the platted property even though the total amount exceeds the statutory limitations.

E. If options C and D above are chosen, the final plat shall state that the developer, the grantees, assignees, and successors in interest agree that public services including but not limited to street maintenance, snow and ice removal, rubbing, refuse, and garbage collection will not be extended to this subdivision until the pavement is completed and accepted by the City.

F. Copy of all restrictive covenants to be attached to the lots of the subdivision.

G. A written guarantee along with an engineering opinion and sufficient surety to cover repairs or replacement for all streets, utilities, and improvements installed by the developer that the improvement will last a minimum of three years without needing repairs.

5. The final plat shall also be accompanied by the following at the time it is presented for filing:

A. A complete abstract of title and an opinion from an attorney at law showing that the fee title is in the proprietor and that the land platted is free from encumbrances, or is free from encumbrance other than that secured by a bond as provided in Section 409.11 of the Code of Iowa.

B. If the land platted is encumbered in the manner set out in Section 409.11 of the Code of Iowa, there shall also be filed a certificate showing that an encumbrance bond in an amount double the amount of the encumbrance and approved by the County Recorder and Clerk of the District Court and which runs to the County for the benefit of the purchasers of the land subdivided has been filed with the County Recorder.

C. A certified statement from the Treasurer of the County that it is free from taxes.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 67

SUBDIVISION REGULATIONS
DESIGN STANDARDS

SECTION 1. Streets and Alleys. Street and alley design standards shall be as follows:

1. General. General requirements include:

A. The street and alley layout shall provide access to all lots and parcels of land within the subdivision.

B. Street jogs of less than 125 feet shall be avoided.

C. Cul-de-sacs shall not exceed 600 feet in length.

D. Proposed streets shall be adjusted to the contour of the land so as to produce usable lots and streets of reasonable gradient.

E. New subdivisions shall make provisions for continuation and extension of thoroughfares and collector streets and roads.

F. No dead-end streets or alleys will be permitted except at subdivision boundaries.

G. Thoroughfare and collector streets in a subdivision shall extend through the boundaries thereof.

H. Alleys shall not be permitted in residential areas but shall be provided in commercial and industrial areas except that the planning and commission may waive this requirement where other definite and assured provision is made for service areas, loading and parking space consistent with and adequate for the use proposed.

I. Intersection of road center lines shall be between 80 degrees and 100 degrees.

J. Intersection of more than two streets at a point shall not be permitted.

K. Where parkways or special types of streets are proposed, the commission may apply special standards for the design of such parkways or streets.

L. Proposed streets that are extensions of or in alignment with existing streets shall bear the name of the existing street.

M. On thoroughfare and collector streets a tangent of at least 100 feet long shall be introduced between reverse curves.

N. Half streets shall be prohibited except where essential to the reasonable development of the subdivision and adjoining tract, and where the planning commission finds it reasonable to require dedication of the other half when the adjoining tract 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.

2. Right-of-Way. Minimum rights-of-way shall be provided as follows:

- A. Thoroughfare or Arterial streets -- 80 feet.
- B. Collector streets -- 70 feet.
- C. Residential streets -- 60 feet.
- D. Cul-de-sacs -- 100 feet in diameter
- E. Alleys -- 20 feet.

3. Surface Width. Minimum width of surfacing to be provided shall be as follows:

- A. Thoroughfare or Arterial streets -- 45 feet.
- B. Collector streets -- 41 feet.
- C. Residential streets --31 feet.
- D. Cul-de-sacs -- 80 feet in diameter.
- E. Alleys -- 20 feet.

4. Grades. No street grade shall be less than four- tenths (0.4) of one (1) percent and shall not exceed the following limits:

- A. Thoroughfare streets -- 6 percent
- B. Collector streets -- 8 percent.
- C. Residential streets -- 10 percent.

SECTION 2. Blocks. Blocks shall conform to the following standards:

1. Length. The length of blocks shall be not less than five hundred (500) feet and not more than one thousand four hundred (1,400) feet in length.

2. Width. Blocks shall be of sufficient width to permit two (2) tiers of lots of appropriate depth and in no case shall the width be less than two hundred twenty (220) feet, except where a single tier of double frontage lots parallel a limited access highway, a thoroughfare, drainage course, railroad, or other barrier, the width shall not be less than one hundred fifty (150) feet.

SECTION 3. Lots. Lots shall conform to the following standards:

1. Access to Street. All lots shall abut on a street or place. Corner lots which abut on a thoroughfare or collector street shall have minimum radius of fifteen (15) feet at the intersection.

2. Side Lines. Side lines of lots shall approximate right angles to straight street lines and radial angles to curved street lines except where a variation will provide better lot layout.

3. Double Frontage. Lots with double frontage shall be avoided, except in specific locations where good planning indicates their use. In that event, a planting screen shall be provided along the rear of the lot.

4. Width and Area. Lot width and area shall conform to the requirements of the applicable municipal or County zoning district in which such lots are located. Where interior lots are 90 feet in width or less, corner lots shall be at least ten (10) feet wider than interior lots.

SECTION 4. Sidewalks. Sidewalks shall conform to the following standards:

1. Location. Sidewalks shall be located in the street right-of-way one (1) foot from the right-of-way line and shall be four (4) feet in width.

2. Grade. The area between the curb and nearest edge of the sidewalk shall have a slope of one half (1/2) inch per foot toward the curb. This shall be the method for determining the grade of the sidewalk.

3. Crosswalks. Crosswalks may be required in blocks over seven hundred (700) feet long or in areas where curved streets require excessive out-of-distance travel. If required, they shall be locate in a right-of-way not less than thirty (30) feet in width and shall be constructed by the developer.

SECTION 5. Easements. Easements shall be provided as follows:

1. Lot Lines. Easements not less than six (6) feet in width shall be provided along each side of the rear lot lines of all lots, and along such other lot lines as may be required by public and private utility companies.

2. Major Utilities and Drainage. Easements of greater width may be required for trunk lines, pressure lines, open drainage courses or high voltage lines and shall be provided as determined by the utility or City Council.

3. Utilities. Utility easements shall convey to the City, its successors and assigns, the perpetual right within the areas shown on the plat and described in the easement, to construct, reconstruct, operate, and maintain electric lines consisting of poles, wires, cables, conduits, fixtures, anchors, and other similar equipment, including the right to trim or remove trees within such areas where necessary to secure a clearance of four (4) feet from wires or poles, together with the right to extend to any telephone, telegraph, electric, or power company, the right to use separately or jointly with the City, the areas included in the easement for the purposes above enumerated.

SECTION 6. Parks, School Sites, and Public Areas. In subdividing property, consideration shall be given to suitable sites for schools, parks, playgrounds, and other common areas for public use so as to conform to any recommendations of the City plan.

Any provision for schools, parks, and playgrounds should be indicated on the preliminary plan in order that it may be determined when and in what manner such areas will be provided or acquired by an appropriate taxing agency.

SECTION 7. Preservation of Natural Drainage Courses. Whenever any stream or important surface drainage course is located in an area which is being subdivided, the subdivider shall provide an adequate easement along each side of the stream for the purpose of widening, deepening, sloping, improving, or protecting the stream or drainage course. The subdivider shall provide for adequate drainage of the area of the proposed subdivision in a manner acceptable to the City and consistent with the drainage of the City.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 68

SUBDIVISION REGULATIONS
IMPROVEMENTS REQUIRED

SECTION 1. Sanitary Sewers. The subdivider shall provide the subdivision with sanitary sewage facilities in accordance with one of the following:

1. Public Collection System. Where reasonably available the subdivider shall provide the subdivision with a complete sanitary sewer system which shall connect with the sanitary sewer system of the City. In such case the sewer system shall be approved by the City Council and shall be designed and constructed in accordance with the municipal specifications.

2. Local or Community Treatment System. Where it is deemed by the City not be practical to connect the subdivision sanitary sewer system to a municipal sewer, the subdivider shall install a local or community treatment system in accordance with the requirements of the State Board of Health and the County Board of Health.

3. Private Disposal System. If it is demonstrated to the City that the above are not practical, the City Council may, upon request, permit the subdivider to install on each lot a septic tank and absorption field or other system approved by the County Board of Health, provided such lots meet the area requirements established for such systems under the Zoning Code. In no case, however, shall private disposal systems be permitted where rock, impervious clay, or ground water is closer than thirty (30) inches to the surface of the ground.

SECTION 2. Water. The City Council may, at it discretion install water mains and hydrants and charge a connection fee. Where it is deemed by the City Council to be impractical for the City to install the water mains and hydrants, the subdivider shall provide the subdivision with an approved water supply and distribution system in accordance with one of the following:

1. Public Water System. Where reasonably available, the subdivider shall provide the subdivision with a complete water main supply system including hydrants, valves, and other appurtenances which shall extend into and through the subdivision to the boundary lines, and which shall provide for a water connection to each lot, and shall be connected to a public or municipal water system.

2. Local or Community Water System. Where a public water system is deemed by the City not to be available, the subdivider shall install a local or community water supply and distribution system, including all necessary mains, valves, hydrants, and other appurtenances, in accordance with the standards and requirements of the State Board of Health and the County Board of Health.

3. Individual Water System. If it is demonstrated to the City that the above are not practical, the City Council may, upon request, permit the subdivider to install individual wells on

each lot, or other water system approved by the County Board of Health, provided such lots meet the area requirements established for such systems under the Zoning Code.

SECTION 3. Storm Drains. The subdivider shall provide the subdivision with adequate drains, ditches, culverts, complete bridges, storm sewers, intakes and manholes to provide for the collection and removal of all surface waters, and these improvements shall extend to the boundaries of the subdivision so as to provide for extension by adjoining properties.

SECTION 4. Sidewalks. Along thoroughfare and collector streets in residential areas the subdivider shall provide a four-foot wide concrete sidewalk along each lot frontage upon completion of the structure thereon.

SECTION 5. Markers. An iron rod not less than one-half (1/2) inch in diameter and twenty-four (24) inches in length shall be placed at all changes in direction of lot boundaries and at all lot corners except those where monuments are required.

SECTION 6. Monuments. A reinforced concrete monument not less than four (4) inches square or five (5) inches in diameter and forty-eight (48) inches in length with a brass cap or similar type of monument approved by the City shall be placed at the intersection of all lines forming angles in the boundary of the subdivision and at all block corners.

SECTION 7. Grading. All streets and alleys within the platted area which are being dedicated for public use shall be brought to the grade approved by the City Council.

SECTION 8. Curb and Gutter. Curb and gutter shall be installed on all streets and in the plat being dedicated for public use and shall be constructed of Portland cement concrete in accordance with designs and specifications and at grades approved by the City Council.

SECTION 9. Surfacing. All streets being dedicated for public use shall be surfaced to the width required by Chapter 67, Section 1. Surfacing shall consist of not less than six (6) inches of Portland cement concrete or a two (2) inch asphaltic concrete wearing surface over a four (4) inch asphalt treated base or over a six (6) inch rolled stone base and constructed in accordance with the designs and specifications, and at grades approved by the City Council. Where a surface width in excess of 31 feet from back of curb to back of curb is required, the cost of the additional surface width, which shall be assumed to be the center portion of the roadway surface, shall be paid by the City. Subdivision developers shall pay the cost of improving one-half of the street where homes have driveway access to or the house's front is on the unimproved streets. These unimproved streets shall meet the requirements of Sections 8 and 9 and Chapter 67, Section 1.

SECTION 10. Specifications. The type of construction, the materials, the methods and standards of subdivision improvements shall be equal to the current specifications of the City for like work. Plans and specifications shall be submitted to the City Council for approval prior to construction and construction shall not be started until the plans and specifications have been approved.

SECTION 11. Inspection. The City Council shall cause the installation of all improvements to be inspected to insure a compliance with the requirements of these Subdivision Regulations. The cost of said inspection shall be borne by the subdivider and shall be the actual cost of the inspection by the City.

SECTION 12. Public Utilities. All public utilities installed in all subdivisions platted after November 1, 1978, shall have all transmission lines underground. This includes all transmission lines for electric services, telephone, and television.

SECTION 13. Sump Drains. The subdivider shall provide a drainage system for all sump pumps to drain into the storm sewer system. This system shall include such pipe, intake, cleaning opening, and be stubbed into each lot for connection. All new homes in the said subdivision shall be hooked up to the sump drain.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 69

SUBDIVISION REGULATIONS GENERAL PROVISIONS

SECTION 1. Jurisdiction. All plats, replats, or subdivision of land into three or more parts for the purpose of laying out a portion of the City, addition thereto, or suburban lots within two (2) miles of the corporate limits of the City for other than agricultural purposes, shall be submitted to the City Council and Planning and Zoning Commission of the City, in accordance with the provisions of these Subdivision Regulations, and shall be subject to the requirements established herein.

SECTION 2. Definitions. For the purpose of these Subdivision Regulations chapters, certain terms and words are hereby defined. Words used in the present tense shall include the future; the singular number shall include the plural and the plural the singular; and the word "building" shall include the word "structure" and the word "shall" is mandatory and not directory.

1. The term "alley" shall mean a permanent public service way or right-of-way designed to provide a secondary means of access to abutting property.

2. The term "Auditor" shall mean the County Auditor of Story County, Iowa.

3. The term "building line" shall mean a line established on a plat as a restrictive covenant beyond which no building may be placed. The building lines need not correspond to the front, side, or rear yard requirement established in the zoning ordinance, and where they do not, the most restrictive requirement will control.

4. The term "Commission" shall mean the Planning and Zoning Commission of the City of McCallsburg, Iowa.

5. The term "Cul-de-sac" shall mean a short minor street having one end open to motor traffic, the other end being permanently terminated by a vehicular turnaround.

6. The term "easement" shall mean an authorization by a property owner for the use by another, and for a specified purpose, of any designated part of the owner's property.

7. The term "final plat" shall mean the map or drawing on which the subdivision plan is presented in the form which, if approved by the City Council and Planning and Zoning Commission, will be filed and recorded with the County Recorder.

8. The term "preliminary plat" shall mean a study or drawings indicating the proposed manner or layout of the subdivision which is submitted to the City Council and Planning and Zoning Commission for consideration.

9. The term "separate tract" shall mean a parcel of land or a group of contiguous parcels of land under one ownership on the effective date of these Subdivision Regulations.

10. The term "street or road" shall mean a right-of-way other than an alley dedicated or otherwise legally established to be accepted for public use, usually affording the principal means of access to abutting property. A street may be designated as a street, highway thoroughfare, parkway, avenue, road, lane, drive, place, or other appropriate designation.

11. The term "thoroughfare or arterial street" shall mean a street intended for cross-country or through traffic. This category includes freeway-expressway extensions, arterial extensions, and arterial connector extensions as defined by the Iowa functional classification system.

12. The term "collector street" shall mean a street intended to carry vehicular traffic from residential streets to thoroughfares or traffic generators. This category includes trunk extensions, trunk collection extensions, municipal arterials, and municipal collectors as defined by the Iowa functional classification system.

13. The term "residential street or road" shall mean a street used primarily for access to abutting property. This category includes municipal service streets as defined by the Iowa functional classification system.

14. The term "right-of-way" shall mean the area measured between property lines dedicated to and accepted for public use and providing access to abutting properties.

15. The term "subdivider" shall mean any person, firm, corporation, partnership, or association who shall lay out for the purposes of sale or development any subdivision or part thereof as defined herein, either for the subdivider or others.

16. The term "subdivision" shall mean the division of a separate tract of land into three (3) or more lots or parcels for the purpose of transfer of ownership or building development, or if a new road is involved, any division of a parcel of land.

17. The term "surety" shall mean a guarantee in writing backed by substantial assets pledged by any financial institution, insurance company, or other party of substantial financial standing being bound with its principal for the payment of a sum of money or for the performance of some duty or promise required of the party being serviced.

SECTION 3. Fees. Each preliminary plat submitted for approval shall be accompanied by a fee determined by resolution of the Council to cover the actual costs involved including engineering fees and meeting fees. A minimum fee of \$50 is required.

SECTION 4. Variances. Where the strict application of standards or requirements established by these Subdivision Regulations would cause substantial hardship or impose unreasonable restrictions on the development of a tract of land because of natural or physical conditions or limitations not created by the owner or developer, the Planning and Zoning Commission may recommend and the City Council may grant such variances from these standards

or requirements as may be necessary to permit the reasonable development of the land while preserving the intent of these Subdivision Regulations.

SECTION 5. Enforcement. In addition to other remedies and penalties prescribed by law, the provisions of these Subdivision Regulations shall be enforced as follows:

1. Recording Prohibited. No plat or subdivision in the City or within two (2) miles thereof shall be recorded or filed with the County Auditor or County Recorder, nor shall any plat or subdivision have any validity until it complies with the provisions of these Subdivision Regulations and has been approved by the City Council as prescribed herein.

2. Building Permits. No more than two (2) building permits shall be issued for each separate tract existing at the effective date of these Subdivision Regulations unless the tract shall have been platted in accordance with the provisions contained herein.

3. Public Improvements. No public improvements over which the City Council has control shall be made with City funds, nor shall any City funds be
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expended for street maintenance, street improvements or other services in any area that has been subdivided after the date of adoption of these Subdivision Regulations unless the subdivision and streets have been approved in accordance with the provisions of these Subdivision Regulations and the street accepted by the City Council as a public street.

4. Fine. Any person who shall hereafter dispose for sale or lease any lots in the City or addition thereto unless the plat thereof has been approved in accordance with these Subdivision Regulations and recorded, shall forfeit and pay Fifty Dollars (\$50) for each lot or part of lot sold or disposed of, leased, or offered for sale.

SECTION 6. Amendments. These Subdivision Regulations may be amended from time to time by the City Council. Such amendments as may be proposed shall first be submitted to the Planning and Zoning Commission for study and recommendation. The commission shall report within thirty (30) days, after which the City Council shall give notice of and hold a public hearing on the proposed amendment. The amendment shall become effective from and after its adoption and publication as required by law.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 70

SIGN REGULATIONS

SECTION 1. Purpose. The purpose of this chapter is to provide that signs shall be safely constructed and kept in a safe condition, and that signs shall not be located so as to cause a safety hazard.

SECTION 2. Definitions. For use in this chapter the following terms are defined:

1. The term "sign" shall mean and include every sign, billboard, ground sign, wall sign, roof sign, illuminated sign, projected sign, and temporary sign, and shall include any announcement, decoration, demonstration, display, illustration or insignia used to advertise or promote the interests of any person when the same is placed out of doors in view of the general public.

2. The term "ground sign" as regulated by this chapter shall mean any sign supported by uprights or braces placed upon the ground and not attached to any building.

3. The term "wall sign" as regulated by this chapter shall mean all flat signs of solid face construction which are placed against a building or other structure and attached to the exterior front, rear, or side wall of any building or other structure.

4. The term "roof sign" as regulated by this ordinance shall mean any sign erected, constructed and maintained wholly upon or over the roof of any building with the principal support on the roof structure.

5. The term "projecting sign" as regulated by this chapter shall mean any sign which is attached to a building or other structure or beyond the line of said building or structure to which it is attached. All projecting signs shall be illuminated signs as defined by this chapter.

6. The term "illuminated sign" shall mean any sign which has character, letters, figures, designs, or outline illuminated by electric lights or luminous tubes as part of the sign proper.

7. The term "facing or surface" shall mean the surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

8. The term "person" shall mean and include any person, firm, partnership, association, corporation, company, or organization of any kind.

9. The term "erect" shall mean to build, construct, attach, hand, suspend, or affix, and shall also include the painting of wall signs.

10. The term "street line" shall mean the place where the public sidewalk begins and the private property line ends.

SECTION 3. Permits Required. It shall be unlawful for any person to erect, repair, alter, relocate, or maintain within the City any sign or other advertising structure as defined in this chapter, without first obtaining an erection permit from the City Council and making payment of the fee of twenty-five dollars (\$25). All illuminated signs shall, in addition, be subject to the provisions in the National Electrical Code, and the permit fees required thereunder.

SECTION 4. Application For Erection Permit. Application for erection permits shall be made upon blanks provided by the City Clerk, and shall contain or have attached thereto the following information:

1. Name, address, and telephone number of the applicant.
2. Location of building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected.
3. Position of the sign or other advertising structure in relation to nearby buildings or structures.
4. Name of person, firm, corporation, or association erecting structure.
5. Such other information as the City Clerk shall require to show full compliance with this chapter and all other chapters of the City.

SECTION 5. Permit Issued. It shall be the duty of the City Council, upon the filing of an application for an erection permit to examine such applications and other data, and if it shall appear that the proposed structure is in compliance with all the requirements of this chapter and all other chapters of the City of McCallsburg, Iowa, he or she shall then issue the erection permit. If the work authorized under an erection permit has not been completed within six (6) months after date of issuance, the said permit shall become null and void.

SECTION 6. Unsafe and Unlawful Signs. If the City Mayor shall find that any sign or other advertising structure related hereunder is unsafe or insecure or is a menace to the public, or has been constructed or erected or is being maintained in violation of the provisions of this chapter, he or she shall give written notice thereof to the permit holder. Such notice shall include a statement explaining the alleged violations and deficiencies, an order to repair or remove said sign, and an explanation of the consequences of failure to comply with said order. If the permit holder fails to remove or alter said sign so as to comply with the order within the (10) days after such notice, said sign or other advertising structure may be removed or altered to comply by the City Mayor at the expense of the permit holder or owner of the property on which it is located. The permit holder may appeal the order of the City Mayor to the Council, and if such appeal is on file, the ten (10) day compliance period shall be extended until ten (10) days following the Council's decision on the matter. If, however, the City Mayor finds that any sign or other advertising structure poses a serious and immediate threat to the health and safety of any person, he or she

may order the removal of such sign summarily and without notice to the permit holder. Such an order may be appealed to the Council, and if the Council reverses, it shall order restitution at the City's expense.

SECTION 7. Permit Revocation. Any permit holder who fails to comply with a valid order of the City Mayor within the allotted time period, or who fails to pay reasonable removal or repair expenses assessed under the preceding section shall have his or her permit as to such sign or signs revoked, and another permit for the erection or maintenance of such sign or signs shall not be issued to said permit holder for a period of one (1) year from the date of revocation.

SECTION 8. Painting Required. The owner of any sign as defined and regulated by this chapter shall be required to have properly painted all parts and supports of said sign.

SECTION 9. Removal of Certain Signs. Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or structure upon which such sign may be found within ten (10) days after written notification from the City Mayor, and upon failure to comply with such notice within the time specified in such order, the City Mayor is hereby authorized to cause removal of such signs, and any expense incident thereto shall be paid by the owner of the building or structure to which such signs is attached.

SECTION 10. Exemptions. The provisions and regulations of this chapter shall not apply to the following signs provided; however, said signs shall be subject to the provisions of Section 6:

1. Real estate signs not exceeding eight (8) square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are located only.
2. Professional name plates not exceeding one (1) square foot in area.
3. Signs painted on the exterior surface of a building or structure, provided, however, if said signs have raised borders, letters, characters, decorations, or lighting appliances, they shall be subject to the provisions of this chapter.
4. Bulletin boards not over eight (8) square feet in area for public, charitable, or religious institutions when the same are located on the premises of said institutions.
5. Signs denoting the architect, engineer, or contractor when placed upon work under construction, and not exceeding sixteen (16) square feet in area.
6. Occupational signs denoting only the name and profession of an occupant in a commercial building, public institutional building or dwelling house, and not exceeding two (2) square feet in area.
7. Memorial signs or tables, names of buildings, and date of erection when cut into any masonry surface or when constructed of bronze or other incombustible materials.

8. Traffic or other municipal signs, legal notices, railroad crossing signs, danger, and such temporary emergency, or non-advertising signs as may be approved by the City Council.

SECTION 11. Obstruction to Doors, Windows, or Fire Escapes. No sign shall be erected, located, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape. No sign of any kind shall be attached to a standpipe or fire escape.

SECTION 12. Signs Not To Constitute Traffic Hazard. No sign or other advertising structure as regulated by this ordinance shall be erected at the intersection of any streets in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal, or device; or which makes use of the words, "STOP," "LOOK," "DRIVE-IN," "DANGER," or any other word, phrase, symbol, or character in such manner as to interfere with, mislead, or confuse traffic. No sign or other advertising structure as regulated by this chapter shall have posts, guides, or supports located within any street or alley.

SECTION 13. Face of Sign Shall Be Smooth. All signs or other advertising structures which are constructed on street lines, or within five (5) feet thereof, shall have a smooth surface and no nails, tacks, or wires shall be permitted to protrude therefrom, except electrical reflectors and devices which may extend over the top and in front of the advertising structures.

SECTION 14. Goose Neck Reflectors. Goose neck reflectors and lights shall be permitted on ground signs, roof signs, and wall signs provided; however, the reflectors shall be provided with proper glass lenses concentrating the illumination upon the area of the sign as to prevent glare upon the street or adjacent property.

SECTION 15. Spotlights and Floodlights Prohibited. It shall be unlawful for any person to maintain any sign which extends over public property which is wholly or partially illuminated by floodlights or spotlights.

SECTION 16. Removal Upon Abandonment of use. It is the responsibility of the owner of the sign to remove such sign when its advertising or other commercial use is abandoned.

SECTION 17. Penalty. Anyone violating any of the provisions in this chapter shall, upon conviction, be subject to imprisonment not exceeding thirty (30) days or a fine not exceeding \$100.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 71

TAX INCREMENT FINANCE PROGRAM

SECTION 1. Purpose. The purpose of this chapter is to provide for the division of taxes levied on the taxable property in McCallsburg Urban Renewal Area, each year by and for the benefit of the state, city, county, school districts or other taxing districts in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of McCallsburg to finance projects in such area.

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

"City" shall mean the City of McCallsburg, Iowa.

"County" shall mean the County of Story, Iowa.

"Urban Renewal Area" shall mean the McCallsburg Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on August 7, 2000:

The McCallsburg Urban Renewal Area includes the entire area within the corporate limits except for properties that are assessed as agricultural.

The 15 properties that are not included in the McCallsburg Urban Renewal Area are identified by the following parcel numbers:

	<u>TWP/CORP</u>	<u>SEC</u>	<u>CODE</u>	<u>PARCEL NO.</u>
1)	03	14	360	101
2)	03	15	390	101
3)	03	15	450	101
4)	03	15	460	101
5)	03	15	465	101
6)	03	22	125	101
7)	03	22	125	601
8)	03	22	127	601
9)	03	22	175	105
10)	03	22	175	110
11)	03	22	218	101
12)	03	22	241	105
13)	03	23	109	240
14)	03	23	109	241
15)	03	23	115	105

SECTION 3. Provisions for Division of Taxes levied on Taxable Property in the Urban Renewal Area. The taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, shall be' divided as follows:

a. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certified 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 are paid. For the purpose of allocating levied by or 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 to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, except that taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of 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 said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

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

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

Section 4. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 5. Saving Clause. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 6. Effective Date. This chapter shall be effective after August 7, 2000.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 72

MOBILE HOMES AND MOBILE HOME PARKS

SECTION 1. Purpose. The purpose of this chapter is to provide for municipal regulation of mobile homes and mobile home parks in furtherance of the public health, safety, morals and welfare.

SECTION 2. Definitions. For use in this chapter the following terms are defined:

1. Manufactured home: shall mean a factory built structure, which is manufactured or constructed under authority of 42 U.S.C. Sec. 5403 and is to be used as a place for human habitation, but which is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles.

(Code of Iowa, Chapter 414)

2. Mobile Home or House Trailer: shall mean 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.

(Code of Iowa, Sec. 135D.1[1])

3. Mobile Home Park or Trailer Camp: shall mean any site, lot, field or tract of land upon which two (2) or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park. The term "mobile home park" shall not be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students.

(Code of Iowa, Sec. 135D.1[2])

4. "Trailer Home Space": shall mean a plot of ground within a trailer home park designed for the accommodation of one trailer home.

SECTION 3. Illegal Parking of Trailer Homes. It shall be unlawful for any person, firm or corporation to park any occupied or unoccupied trailer home:

1. Permit Required. On any public street, alley, highway, or other public place within the corporate limits for a period of time in excess of twenty-four hours, except in a trailer home park, unless a permit therefore shall have been first obtained as required herein.

2. Utility Service. No municipal utility service shall be provided for any trailer home, unless a permit therefore shall have first been obtained as required herein.

3. Responsibility of Property Owner. It shall be unlawful for any person, firm or corporation to allow any premises occupied by him, her or it to be used in violation of the terms of this chapter. Violations of this chapter by an occupant of a trailer home shall raise the presumption that said violation was consented to by the person, firm or corporation occupying or owning the premises.

SECTION 4. Application for Permit. All applications to occupy or park a trailer home on private property outside a trailer home park shall be filed with the Clerk on forms furnished by the City and shall include the following information:

1. Location. The street and house number of the principal building on the lot, or a description of the premises to be occupied by the trailer house.

2. Property Owner. The name of the occupant of the said premises.

3. Occupants. The number of persons to occupy the trailer home together with the name and permanent address of the applicant.

4. Sanitation Facilities. A statement of the nature and location of sanitary facilities to be used by the trailer home occupants and a statement that all waste water shall be emptied into proper sewer- connected fixtures.

5. Duration of Permit. The length of time requested for the occupancy of the premises, but in no event shall the length of time be in excess of sixty days.

SECTION 5. Issuance of a Permit. The Clerk, upon approval by the Council of an application for a trailer home permit, shall issue a permit good for not more than sixty days from the date of issuance and shall collect a fee of five dollars (\$5.00).

SECTION 6. Renewal of Permit. A permit for the occupancy of a trailer home on private property may, upon approval of the council, be renewed once and then only for a period of sixty days, upon the payment of an additional five dollars (\$5.00).

SECTION 7. Permanent Addition of Attachments. No permanent additions or attachments of any kind shall be built onto or become a part of any trailer home, other than one located in a trailer home park.

SECTION 8. Revocation of Permit. The conviction of any person, firm or corporation for violation of this chapter or any chapter of this code of Ordinances, or statutes of the State of Iowa involving moral turpitude shall automatically revoke any permit issued under the terms hereof.

SECTION 9. State Law Shall Control. The laws of the State and regulations of the State Department of Health as well as the City's Zoning Code shall govern the establishment, maintenance, conduct and operation of any trailer home and park.

SECTION 10. Mobile Home Tie Down. All mobile homes shall be anchored to the ground with tie downs with a tensile strength of 2800 pounds. Regulations and standards for acceptable tie downs shall be such standards as set by the State and Federal governments. The building inspector shall regularly inspect all mobile homes and issue a warning or citation to those that do not have adequate tie down to comply.

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT

CHAPTER 73

FLOODPLAIN MANAGEMENT

SECTION 1 - Statutory Authority, Findings of Fact and Purpose

A. The Legislature of the State of Iowa has in Chapter 414, Code of Iowa, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

B. Findings of Fact

1. The flood hazard areas of the City of McCallsburg 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.

2. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

C. Statement of Purpose

It is the purpose of this Ordinance to protect and preserve the rights, privileges and property of the City of McCallsburg and its residents and to preserve and improve the peace, safety, health, welfare, and comfort and convenience of its residents by minimizing those flood losses described in Section IB 1 of this Ordinance with provisions designed to:

1. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities.
2. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.
3. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.
4. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

SECTION II - General Provisions

A. Lands to Which Ordinance Apply

The provisions of this Ordinance shall apply to all lands within the jurisdiction of the City of McCallsburg, which are located within the boundaries of the Floodplain (Overlay) District as established in Section III.

B. Rules for Interpretation of Floodplain (Overlay) District

The boundaries of the Floodplain (Overlay) District 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 Board of Adjustment, shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Mayor in the enforcement or administration of this Ordinance.

C. 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.

D. 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.

E. 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.

F. 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 Floodplain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of McCallsburg or any officer or employee thereof for any flood damages that from reliance on this Ordinance or any administrative decision lawfully made thereunder.

G. 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.

SECTION III - Establishment of Floodplain (Overlay) District

The areas within the jurisdiction of the City of McCallsburg having special flood hazards are hereby designated as a Floodplain (Overlay) District and shall be subject to the standards of the Floodplain (Overlay) District (as well as those for the underlying zoning district). The Floodplain (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for story County and Incorporated Areas, City of McCallsburg, Panel 19169C0075E, dated February 20, 2008.

SECTION IV - Standards for Floodplain (Overlay) District

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.

A. All development within the Floodplain (Overlay) District shall:

1. Be consistent with the need to minimize flood damage.
2. Use construction methods and practices that will minimize flood damage.
3. Use construction materials and utility equipment that are resistant to flood damage.
4. Obtain all other necessary permits from federal, state and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

B. 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 Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures shall be provided with a means of access which will be passable by wheeled vehicles during the 100-year flood,

C. 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 and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 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 floodproofed shall be maintained by the Administrator.

D. All new and substantially improved structures:

1. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

a. A minimum of two 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.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

2. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

3. New and substantially improved structures 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.

E. Factory-built homes:

1. All factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

2. 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.

F. 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.

G. 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.

H. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from a 100-year flood with a minimum of 3 ft, of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

I. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources

J. Subdivisions (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 Floodplain (Overlay) District.

K. Accessory Structures

1. Detached garages, sheds, and similar structures accessory to a residential use are exempt from the 100-year flood elevation requirements where the following criteria are satisfied.

a. The structure shall not be used for human habitation.

b. The structure shall be designed to have low flood damage potential.

c. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

d. The structure shall be firmly anchored to prevent flotation which may result in damage to other structures.

e. The structure's service facilities such as electrical and heating equipment shall be elevated are floodproofed to at least one foot above the 100-year flood level.

2. Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

L. Recreational Vehicles

1. Recreational vehicles are exempt from the requirements of Section IV 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.

2. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of Section IV E of this Ordinance regarding anchoring and elevation of factory-built homes.

M. 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.

SECTION V - Administration

A. Appointment, Duties and Responsibilities of Zoning Administrator

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 Floodplain (Overlay) District,
 - 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 floodproofed,
 - 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.

B. Floodplain Development Permit

1. 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, miring, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.
2. Application for Permit - Application shall be made on forms furnished by the Administrator and shall include the following:
 - a. Description of the work to be covered by the permit for which application is to be made.

b. 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.

c. Indication of the use or occupancy for which the proposed work is intended.

d. Elevation of the 100-year flood.

e. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

f. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements.

g. Such other information as the Administrator deems reasonably necessary (e.g., drawings or a site plan) for the purpose of this Ordinance.

3. Action on Permit Application - The Administrator shall, within a reasonable time, make 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 Board of Adjustment.

4. 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, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this Ordinance, prior to the use or occupancy of any structure.

C. Variance

1. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this Ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

a. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense,

create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

b. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief

c. 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: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction increases risks to life and property.

2. Factors Upon Which the Decision of the Board of Adjustment Shall be Based - In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this Ordinance and:

a. The danger to life and property due to increased flood heights or velocities caused by encroachments.

b. The danger that materials may be swept on to other land or downstream to the injury of others.

c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner,

e. The importance of the services provided by the proposed facility to the City.

f. The requirements of the facility for a floodplain location.

g. The availability of alternative locations not subject to flooding for the proposed one.

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

j. The safety of access to the property in. times of flood for ordinary and emergency vehicles.

k. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

1. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

m. Such other factors which are relevant to the purpose of this Ordinance.

3. Conditions Attached to Variances - Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

a. Modification of waste disposal and water supply facilities.

b. Limitation of periods of use and operation.

c. Imposition of operational controls, sureties, and deed restrictions.

d. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this Ordinance.

e. Floodproofing measures.

SECTION VI -Nonconforming Uses

A. 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.

B. 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.

SECTION VII - Penalties for Violation

Violations of the provisions of this Ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 (five hundred) or imprisoned for not more than 30 (thirty) days.

Nothing herein contained prevent the City of McCallsburg from taking such other lawful action as is necessary to prevent or remedy violation.

SECTION VIII - 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.

SECTION IX - 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.

BASE FLOOD- The flood having one (1) percent chance of being equaled or exceeded in any given year. (See 100-year flood).

BASEMENT - Any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor)."

DEVELOPMENT - 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 or drilling operations.

EXISTING CONSTRUCTION - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community.

EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

FACTORY-BUILT HOME - Any structure, designed for residential use:, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this Ordinance factory built homes include mobile homes, manufactured homes and modular homes and also includes "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

FACTORY-BUILT HOME PARK - A parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

FLOOD - A general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

FLOOD ELEVATION - The elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the 100-year flood elevation is the elevation of flood waters related to the occurrence of the 100-year flood.

FLOOD INSURANCE RATE MAP (FIRM) - 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.

FLOODPLAIN - Any land area susceptible to being inundated by water as a result of a flood.

FLOODPLAIN MANAGEMENT - An overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplain s, including but not limited to emergency preparedness plans, flood control works, floodproofing and floodplain management regulations.

FLOODPROOFING - Any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

FLOODWAY - The channel of a river or stream and those portions of the floodplain s 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.

FLOODWAY FRINGE - Those portions of the floodplain, other than the floodway, which can be filled, leveed, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

HISTORIC STRUCTURE - Any structure that is:

- a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either (i) an approved state program as determined by the Secretary of the interior or (ii) directly by the Secretary of the Interior in states without approved programs.

LOWEST FLOOR - The floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

- a. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section IVD1 of this Ordinance and
- b. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and
- c. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the 100-year flood level, and
- d. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies criteria a, b, c, and d above, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria above.

NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

NEW FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the community.

ONE HUNDRED (100) YEAR FLOOD - 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.

RECREATIONAL VEHICLE - A vehicle which is:

- a. Built on a single chassis;
- b. Four hundred (400) square feet or less when measured at the largest horizontal projection;
- c. Designed to be self-propelled or permanently towable by a light duty truck; and
- d. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use;

SPECIAL FLOOD HAZARD AREA - 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.

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.

STRUCTURE - Anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factor-built homes, storage tanks, and other similar uses.

SUBSTANTIAL DAMAGE - Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT - Any improvement to a structure which satisfies either of the following criteria:

1. 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".

2. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after 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.

VARIANCE - A grant of relief by a community from the terms of the floodplain management regulations.

VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

TITLE VII - TRANSPORTATION - STREETS & ALLEYS

CHAPTER 74

STREET AND ALLEY REGULATIONS

SECTION 1. Purpose. The purpose of this chapter is to establish the width of streets and alleys within McCallsburg.

SECTION 2. Street Width. All streets and extensions shall be sixty-five (65) feet in width and shall be kept open to their full width.

SECTION 3. Obstructions. All streets shall be kept clean of unnecessary obstructions and when established and opened shall remain open until closed by order of the Council.

SECTION 4. Alley Width. All alleys shall be sixteen and one-half (16 1/2) feet wide and kept open to their full width.

SECTION 5. Unnecessary Obstructions. All alleys shall be kept free from any decaying or obnoxious material and shall be kept in a sanitary condition and free from obstructions.

SECTION 6. For anyone cutting a street for work on a water line, sewer line, utility line, or for any other purpose requiring the repair of the street, the actual cost of repairs shall be assessed to the person making the street cut or property owner for whose benefit the street cut is made plus an administrative fee of \$25. The street shall be placed to an equal or better condition.

SECTION 7. Penalty. Anyone violating any of the provisions of this chapter shall have committed a municipal infraction subject to the penalties of that Chapter of the Code of Ordinance.

TITLE VII - TRANSPORTATION - STREETS & ALLEYS

CHAPTER 75

FIXING OF DATUM PLANE

SECTION 1. Purpose. the purpose of this chapter is to adopt a datum plane in the City of McCallsburg, Iowa, which would be horizontal plane lying one hundred (100) feet below the top of an iron rod set in concrete in an iron pipe locate at the southeast corner of Block 9 in the original town of McCallsburg, Iowa.

SECTION 2. Fixed Bench Mark. The standard bench mark in the City of McCallsburg, Iowa, shall be the top of the iron rod, which is above the City datum plane 100 feet.

SECTION 3. Fixing Grade. The elevation above the town datum plane as shown by the map of the Incorporated City of McCallsburg showing the street grades of the respective streets and avenues, made by John M. Wells, in the Month of May, A.D. 1901, be established grades marked thereon: said elevations, as marked on said map, being the elevation of the curb in feet and decimals of feet above said datum plane. The grades of the curb or 'streets shall connect with said grade points by straight lines. The said curb line shall be six and one-half (6 1/2) feet from and parallel with lot line, on Main Street from "A" to "C" Street.

SECTION 4. Elevation of Curb. The elevation above the town datum plane to the top of all sidewalks, one foot from lot line, shall be one inch above the curb grades established parallel thereto, unless otherwise specified by special ordinance.

TITLE VII - TRANSPORTATION - STREETS & ALLEYS

CHAPTER 76

CHANGE IN GRADE

SECTION 1. Purpose. The purpose of this chapter is to change the grade between 5th and 3rd Streets on Main Street and between the alleys North and South of Main Street on 4th Street.

SECTION 2. Change. Starting on the West side of 5th Street at nothing, running West to 4th Street to six (6) inches below the present grade, crossing 4th Street at six (6) inches, continuing West from west side of 4th Street to alley at six (6) inches, then running West of 3rd Street to nothing.

Starting on the north side of Main Street on 4th Street at six (6) inches, running North to alley eight (8) inches, again starting on south side Main Street on 4' Street at six (6) inches, running South to alley four (4) inches below the present grade line.

TITLE VII - TRANSPORTATION - STREETS & ALLEYS

CHAPTER 77

VACATION OF PORTION OF "C" STREET

SECTION 1. Purpose. The purpose of this chapter is to vacate the described street and thereby relieve the City of McCallsburg, Iowa, of the responsibility for its maintenance and supervision.

SECTION 2. Facts Found. The Council of the City of McCallsburg, Iowa, hereby makes the following findings:

1. The described street is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. The vacation will not deny owners of property abutting on the street reasonable access to their property.

SECTION 3. Vacation. A portion of 4th Street between Blocks Two and Three, Original Town of McCallsburg, Iowa, from the north line of Fruitt Street to the north corporation line; vacating the street north of Block 1, Original Town of McCallsburg, Iowa, which lies west of the west line of 6th Street and east of the east line of 5th Street; vacating the street north of Block 2, Original Town of McCallsburg, Iowa, which lies west of the west line of 5th Street and east of the east line of 4th Street; vacating the street north of Block 3, Original Town of McCallsburg, Iowa, which lies west of the west line of 4th Street and east of the east line of 3rd Street; and vacating street north of Block 2, Drake and Newcomers Additions, Town of McCallsburg, Iowa, which lies west of the west line of 7th Street and east of the east line of 6th Street.

TITLE VII - TRANSPORTATION - STREETS AND ALLEYS

CHAPTER 78

CHANGE OF LOT LINE

SECTION 1. Purpose. The purpose of this chapter is to change the lot lines on streets running east and west parallel with the Chicago & Northwestern Railroad tracks between 8th Street and the southwest corner of Lot 4, Block 5, McCall and Ballard's Addition.

SECTION 2. Location. The north lot line on the street running east and west parallel with the Chicago & Northwestern Railroad tracks between 8th Street on the east and the southwest corner of Lot 4, Block 5, McCall and Ballard's Addition on the west shall be a line ten (10) feet more or less south of the original lot line and parallel with the original lot line.

SECTION 3. Powers. The City Council shall have power to convey to the property owners for a reasonable consideration, the ten (10) foot more or less strip which Section 1 of this chapter provides shall be abandoned for street purposes.

TITLE VII - TRANSPORTATION - STREETS & ALLEYS

CHAPTER 79

SIDEWALK REGULATIONS

SECTION 1. Purpose. The purpose of this chapter is to specify the procedure to be followed by the Council in ordering the construction, repair, replacement, or reconstruction of sidewalks.

SECTION 2. Definitions. For use in this chapter the following terms are defined:

1. The term "Sidewalk" shall mean all permanent public walks in business, residential, or suburban areas.

2. The term "Broom Finish" shall mean a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

3. The term "Wood Float" shall mean a sidewalk finish made by smoothing the surface of the sidewalk with a wooden trowel.

4. The term "Portland Cement" shall mean any type of cement except bituminous cement.

5. The term "One-course Construction" shall mean that the full thickness of the concrete is placed at one time, using the same mixture throughout.

6. The term "Established Grade" shall mean that grade established by the City for the particular area in which a sidewalk is to be constructed.

7. The term "Defective Sidewalk" means any public sidewalk exhibiting one or more of the following characteristics:

A. Vertical separations equal to three-fourths (3/4) inch or more.

B. Vertical raised separations of sidewalk of more than two (2) inches in an eight to ten (8-10) foot area from the normal line of grade of the sidewalk.

C. Vertical depression of the sidewalk of more than two (2) inches in an eight to ten (8-10) foot area from the normal line of grade of the sidewalk.

D. Sidewalk has cracked into three or more pieces per 4'x4' square and sections are distorted or distressed with a vertical height difference of one-half (1/2) inches or more or a horizontal separation of two inches or more.

E. The sidewalk has cracked and part of the sidewalk is missing, forming holes.

F. The sidewalk has settled or for some other reason is sloped and tilted more than one inch per foot (toward either side).

G. Spalling over the sidewalk with fifty (50) percent or more of the surface missing.

8. The term "Sidewalk Improvements" means. the construction, reconstruction, repair, replacement, or removal, of a public sidewalk and/or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.

SECTION 3. Repair, replacement, or reconstruction by property owner(s).

1. It shall be the duty of the abutting property owner at all times to reconstruct, or cause to be reconstructed, all defective public sidewalks in the street right-of-way abutting his or her property.

2. The public sidewalk will be considered defective when it exhibits one of the characteristics listed in this policy under the definition of a sidewalk defect.

3. When a sidewalk is found to contain such a defect, the City will issue a written Notice to Repair Sidewalk to the abutting property owner requiring that the appropriate work be done within thirty (30) days. All locations where "Notice to Repair Sidewalk" has been issued will be reinspected by the City after the abutting property owner has been given thirty (30) days in which to complete the work. Abutting property owners who begin reconstruction within the thirty (30) day period shall be accorded a reasonable time in which to complete the work upon application for extension of time made to the City Zoning Administrator or his or her designees. No extension shall exceed fifteen (15) days.

4. If, upon expiration of the thirty (30) days as provided in said notice, required work has not been done or is not in the process of completion, the City may cause the same to be reconstructed by City crews or by private contractors under a public improvement contract and the cost thereof shall be assessed to the abutting property owner. There shall be returned to the City Council an itemized statement of expenditures used in doing such work, and a description of the tract of ground abutting the sidewalk on which such work has been performed. All sidewalk improvements shall be performed under the supervision and inspection of the City Sidewalk Superintendent appointed by the Mayor.

5. All owners who fail to perform the necessary reconstruction and repairs within the allowed thirty (30) day period from receipt of a Notice to Repair Sidewalk, thereby requiring the City to perform the repairs, shall be assessed an administrative fee of \$25 for each parcel of property to cover the City's costs for marking, notification, billing, postage, inspection, assessment costs, and contract letting.

6. Any repairs or improvements performed by the City shall be billed to the property owner who shall have thirty (30) days to pay the charges to the City Treasurer. In the event that the owner fails to pay the charges within thirty (30) days, the City Treasurer shall certify the charges and the administrative fee to the County Treasurer for collection in the manner of property taxes. Where the total cost of the repairs and the administrative fee exceeds \$100, the City may permit the assessment to be paid in up to ten (10) years, with interest, as provided by Chapter 384 of the Iowa Code.

7. If the abutting property owner does not maintain or repair defective sidewalks as required and action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to 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.

8. No person shall remove, reconstruct, or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction, or installation will comply with all ordinances and requirements of the City for such work. Any person securing a permit as required above shall agree to hold the City free from all liability for damages on account of injuries received by anyone through the negligence of such person or such person's agents or employees in making the sidewalk improvements, or by reason of such person's failure to properly guard the premises.

9. Whenever any material of any kind is deposited on any street, avenue, highway, passageway, or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the constructor, owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street; a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

10. It shall be the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent to notify the City immediately in the event they fail or are unable to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

11. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice provided by this chapter.

SECTION 4. Authority of City To Construct Sidewalks. A plan for construction of any permanent sidewalk may be initiated either:

1. By a written contract to be approved by the City and signed by all of the owners of record of all property who would be affected by an assessment made to finance the construction.
2. Upon the Council's own motion.

SECTION 5. Specifications For the Construction of Sidewalks. Sidewalks constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement shall be the only cement used in the construction.
2. Sidewalk shall be of one-course construction.
3. The sidewalk bed shall be graded to the established grade.
4. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than four (4) feet in length. Business district sidewalks shall be at least five (5) feet wide and four (4) inches thick and each section shall be no more than four (4) feet in length. In a case where there is a driveway approachment, the sidewalk will be six (6) inches thick. For purposes of this chapter the following streets are designated as business district streets wherein sidewalks meeting these specifications shall be constructed: Main Street from 3rd to 8th Streets.
5. All sidewalks shall be elevated high enough to allow for a quarter (1/4) inch fall from the inside of the sidewalk to the curb and shall be elevated two (2) inches above the adjoining ground,
6. All sidewalks shall slope one quarter (1/4) inch per foot toward the curb.
7. All sidewalks shall be finished with a "Broom or Wood Float" finish.

SECTION 6. Removal of snow, ice, and accumulations. It shall be the responsibility of the abutting property owners to remove snow, ice, and accumulations promptly from sidewalks. If a property owner does not remove snow, ice, or accumulations within 24 hours after snow fall, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

