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Councilperson Jurgensen introduced the following Ordinance on August 1, 2016 and asked that it be placed on file and read for the first time.

Councilperson Steve Koch introduced the following Ordinance on September 6, 2016 and asked that it be placed on file and read for the second time. Councilperson Jill Jurgensen then motioned that the rule requiring the following Ordinance to be fully and distinctly read on three different days be suspended in passing and adopting the following Ordinance. Councilperson Joe Sweeney seconded the motion to adopt.

ORDINANCE NO. 2016-002

AN ORDINANCE ADOPTING THE "CITY CODE OF THE CITY OF SUTHERLAND, IOWA, 2016."

SECTION 1. Purpose. The purpose of this adopting Ordinance is to enable the City of Sutherland, Iowa, to comply with the provisions of Section 362.3 and 380.8, The Code of Iowa.

SECTION 2. Adoption. The City of Sutherland, Iowa, hereby adopts the 2016 Code of Ordinances for the City of Sutherland, Iowa, pursuant to published notice and following public hearing on September 6, 2016, so required by Sections 362.3 and 380.8, The Code of Iowa.

SECTION 3. Content. All ordinances or parts thereof in force on, September 10th, 2016 and not contained in the "City Code of the City of Sutherland, Iowa, 2016," are hereby repealed from and after September 10th, 2016, except as hereinafter provided.

That the repeal provided for in the preceding paragraph of this Ordinance shall not affect any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before September 10th, 2016; nor shall such repeal affect any ordinance or resolution promising or guaranteeing the payment of money by the City or authoring the issuance of any bonds of said City or any evidence of said city's indebtedness or any contract or obligation assumed by resolutions of the Council not in conflict or inconsistent with the provisions of the "The City Code of the City of Sutherland, Iowa, 2016"; nor shall it affect any other right of franchise conferred by any ordinance or resolution of the Council on any other person or corporation; nor shall it affect any ordinance naming, establishing, relocation and vacating any street or public way, whether temporary or permanent; nor shall it affect any ordinance levying and imposing taxes; nor shall it affect any ordinance establishing building lines, establishing and changing grades, or dedicating property for public use; nor shall it affect any zoning ordinances and/or zoning map ordinances; nor shall it affect any subdivision ordinances, nor shall it affect any restrictive residence districts, nor shall it affect any prosecution, suit or other proceeding pending or any judgment rendered on or prior to the 10th day of September, 2016.

The 2016 Code of Ordinances shall include this adopting Ordinance and the City Clerk's certification of its adoption and passage.

If the Code of Ordinances includes an ordinance which has adopted by reference the provisions of any statewide or nationally recognized standard code pursuant to the provisions of Section 380.10, The Code of Iowa, the City Clerk shall also keep on file, with the official copy of the City Code, a copy of such standard code.

SECTION 4. Format. The 2016 Code of Ordinances of the City of Sutherland, Iowa, shall be compiled in loose-leaf format.

SECTION 5. Official Copy. The City Clerk shall be responsible for the compilation, organization, and maintenance of the official 2016 Code of Ordinances of the City of Sutherland, Iowa, and shall be keep the official copy on file in the office of the City Clerk.

SECTION 6. Public Copies. Additional copies of the 2016 Code of Ordinance shall be kept in the office of the City Clerk and shall be available for public inspection and for sale for cost to the public. A copy of the 2016 Code of Ordinances shall be kept on file in the City Clerk's office for public inspection.

SECTION 7. Additional Ordinances. All ordinances, except as hereinafter provided, adopted after the effective date of the Ordinance shall be in the form of an amendment to or an addition to the 2016 Code of Ordinances. This section does not apply to grade ordinances, bond ordinances, zoning ordinances, naming streets and vacating streets and alleys.

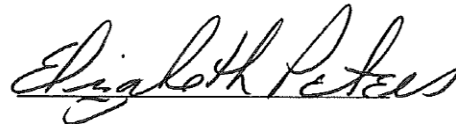
SECTION 8. Effective Date. This Ordinance, after its passage and publication, as required by law, shall be effective as of the 10th of September 2016.

Councilperson Jill Jurgensen motioned that the proposed Ordinance be passed and adopted as Ordinance No. 2016-002. Councilperson Bruce Engelke seconded the motion.

The question regarding passage and adoption of the proposed Ordinance was put to the Council by the Mayor, the Clerk called the roll and the vote was as follows:

Ayes; Bruce Engelke, Joe Sweeney, Steve Koch, Jack Wallinga, Jill Jurgensen Nayes;
Absent;

HEREUPON, the Mayor announced the vote and declared that the Ordinance was duly adopted by the Council on September 6th, 2016.



Elizabeth Peters, Mayor

Attest:



Natosha Petitt, City Clerk

SUPPLEMENT RECORD

SUPPLEMENT		ORDINANCES AMENDING CODE		
Supp. No.	Repeals, Amends or Adds	Ord. No.	Date	Subject

Supp. No.	Repeals, Amends or Adds	Ord. No.	Date	Subject

GENERAL CODE PROVISIONS

CHAPTER 1 - CODE OF ORDINANCES

1.01 Title	1.11 Severability
1.02 Definitions	1.12 Warrants
1.03 City Powers	1.13 General Standards for Action
1.04 Indemnity	1.14 Standard Penalty
1.05 Personal Injuries	1.15 Separate Offense
1.06 Rules of Construction	1.16 Single Offense
1.07 Extension of Authority	1.17 License Revocation; Infraction Charges;
1.08 Amendments	Civil Remedies
1.09 Catchlines and Notes	
1.10 Altering Code	

1.01 TITLE.

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

1.02 DEFINITIONS.

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

1. "Alley" means a public right-of-way, other than a street, affording secondary means of access to abutting property.
2. "City" means the City of Sutherland, Iowa.
3. "Clerk" means the city clerk of Sutherland, Iowa.
4. "Code" means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
5. "Code of Ordinances" means the Code of Ordinances of the City of Sutherland, Iowa.
6. "Council" means the city council of Sutherland, Iowa.
7. "County" means O'Brien County, Iowa.
8. "May" confers a power.
9. "Measure" means an ordinance, amendment, resolution or motion.
10. "Must" states a requirement.
11. "Oath" means the affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" are

equivalent to the words “swear” and “sworn”.

12. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.
13. "Ordinances" means the ordinances of the City of Sutherland, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.
14. "Peace officers", sometimes designated "law enforcement officers", include:
 - a. Sheriffs and their regular deputies who are subject to mandated law enforcement training.
 - b. Marshals and police officers of cities.
 - c. Peace officer members of the department of public safety as defined in Code of Iowa Chapter 80.
 - d. Conservation officers as authorized by Code of Iowa section 456A.13.
 - e. Such employees of the department of transportation as are designated "*peace officers*" by resolution of the department under Code of Iowa section 321.477.
 - f. Such persons as may be otherwise so designated by law.
15. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
16. “Preceding” and “following” mean next before and next after, respectively.
17. “Property” includes real property, and tangible and intangible personal property unless clearly indicated otherwise.
18. “Property Owner” means a person owning private/real property in the City as shown by the County’s Auditor’s plats of the City.
19. “Public Place” includes in its meaning, but is not restricted to, any City-owned open place, such as parks or squares.
20. "Public Property" means any and all property owned by the city or held in the name of the city by any of the departments, commissions or agencies within the city government.
21. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
22. “Shall” imposes a duty.
23. “Sidewalk” means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.
24. “State” means the State of Iowa.

25. "Statutes" or "laws" means the latest edition of the Code of Iowa, as amended.
26. "Street" or "highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular traffic.
27. "Writing" or "written" includes printing, typing, lithographing, or other mode of representing words or letters.

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

1.03 CITY POWERS.

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

(Code of Iowa, Sec. 364.1)

1.04 INDEMNITY.

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

1.05 PERSONAL INJURIES.

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

(Code of Iowa, Sec. 364.14)

1.06 RULES OF CONSTRUCTION.

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

1.07 EXTENSION OF AUTHORITY.

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

1.08 AMENDMENTS.

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

(Code of Iowa, Sec. 380.2)

1.09 CATCHLINES AND NOTES.

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

1.10 ALTERING CODE.

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

(Code of Iowa, Sec. 718.5)

1.11 SEVERABILITY.

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

1.12 WARRANTS.

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

structure, building or premises shall fail or neglect, after presentation of a search warrant, to permit entry therein by the municipal officer or employee.

1.13 GENERAL STANDARDS FOR ACTION.

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

1.14 STANDARD PENALTY.

Unless another penalty is expressly provided by this Code of Ordinances for violation of any particular provision, section or chapter, any person failing to perform a duty required by this Code of Ordinances or otherwise violating any provision of this Code of Ordinances or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of at least sixty-five dollars (\$65.00) but not to exceed six hundred twenty-five dollars (\$625.00). The court may order imprisonment not to exceed thirty (30) days in lieu of a fine or in addition to a fine. The criminal penalty surcharge required by Code of Iowa section 911.1 shall be added to a city fine and is not a part of the city's penalty.

(Code of Iowa, Sec. 364.3(2) and 903.1(1a))

1.15 SEPARATE OFFENSE.

If a violation of this code is committed on more than one calendar day, a separate offense shall be deemed to have occurred on each such calendar day.

1.16 SINGLE OFFENSE.

In cases where action or inaction is made punishable by more than one provision of this code, the city may select the provision or provisions of this code under which to proceed. In such a circumstance, a single offense shall result in no more than one conviction and penalty, subject to the provisions of section 1.09 of this chapter.

1.17 LICENSE REVOCATION; INFRACTION CHARGES; CIVIL REMEDIES.

A violation of this code, in addition to the penalties provided in this chapter, may subject the violator to loss of license or permit, a municipal infraction charge, or other civil remedies provided in other sections of this code. Conviction and imposition of sentence under this chapter shall not bar any such other civil remedies.

CHARTER 2 CHARTER

2.01 Title.

2.02 Form of Government.

2.03 Powers and Duties.

2.04 Number and Term of Council.

2.05 Term of Mayor.

2.06 Copies on File.

2.01 TITLE.

This chapter may be cited as the charter of the City of Sutherland, Iowa.

2.02 FORM OF GOVERNMENT.

The form of government of the City is the Mayor-Council form of government.

(Code of Iowa, Sec. 372.4)

2.03 POWERS AND DUTIES.

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

2.04 NUMBER AND TERM OF COUNCIL.

The Council consists of five (5) Council Members elected at large for overlapping terms of four (4) years.

(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR.

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

(Code of Iowa, Sec. 376.2)

2.06 COPIES ON FILE.

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

(Code of Iowa, Sec. 372.1)

Editor's Note: Ordinance No. 75-1 adopting the charter for the City was passed and approved by the Council on June 2, 1975.

CHAPTER 3 - MUNICIPAL INFRACTIONS

3.01 Municipal Infraction 3.02 Environmental Violation 3.03 Penalties

3.04 Civil Citations 3.05 Alternative Relief 3.06 Criminal Penalties

3.01 MUNICIPAL INFRACTION.

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

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

3.02 ENVIRONMENTAL VIOLATION.

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

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

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. § 403.8.
2. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person not engaged in the industrial production or manufacturing of grain products.
3. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

3.03 PENALTIES.

A municipal infraction is punishable by the following civil penalties:

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

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

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

2. Special Civil Penalties.

- A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. § 403.8, by an industrial user is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each day a violation exists or continues.
- B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:
 - (1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.
 - (2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
 - (3) The violation does not continue in existence for more than eight (8) hours.

3.04 CIVIL CITATIONS.

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

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

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

3.05 ALTERNATIVE RELIEF.

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

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

3.06 CRIMINAL PENALTIES.

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

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

CHAPTER 5 – OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Duties - General
5.04 Books and Records
5.05 Transfer to Successor
5.06 Meetings
5.07 Conflict of Interest
5.08 Resignations

5.09 Removal of Appointed Officers & Employees
5.10 Vacancies
5.11 Gifts.
5.12 Right to Examine Public Records - Exceptions.
5.13 Supervision - Fees.
5.14 Hours When Available
5.15 Unlawful Use of City Property

5.01 OATHS.

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

1. Qualify for Office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after being certified as elected but not later than noon of the first day which is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected or as provided in Code of Iowa, Sections 63.3 and 63.4.

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

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

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

5.02 BONDS.

Surety bonds are provided in accordance with the following:

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

5.03 DUTIES - GENERAL.

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

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

5.04 BOOKS AND RECORDS.

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

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

5.05 TRANSFER TO SUCCESSOR.

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

5.06 MEETINGS.

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

(Code of Iowa, Sec. 21.4)

1. NOTICE OF MEETING (PUBLIC NOTICE) Except as provided in subsection 3, a governmental body shall give notice of the time, date, and place of each meeting including a reconvened meeting of the governmental body, and the tentative agenda of the meeting, in a manner reasonably calculated to apprise the public of that information. Reasonable notice shall include advising the news media who have filed a request for notice with the governmental body and posting the notice on a bulletin board or other prominent place which is easily accessible to the public and clearly designated for that purpose

at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held.

(Code of Iowa, Sec. 21.4)

- 2.a. TWENTY-FOUR HOUR NOTICE. Notice conforming with all of the requirements of subsection 1 of this section shall be given at least twenty-four hours prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given. Each meeting shall be held at a place reasonably accessible to the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Special access to the meeting may be granted to persons with disabilities.
- b. When it is necessary to hold a meeting on less than twenty-four hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.
3. Subsection 1 does not apply to any of the following:
 - a. A meeting reconvened within four hours of the start of its recess, where an announcement of the time, date, and place of the reconvened meeting is made at the original meeting in open session and recorded in the minutes of the meeting and there is no change in the agenda.
 - b. A meeting held by a formally constituted subunit of a parent governmental body during a lawful meeting of the parent governmental body or during a recess in that meeting of up to four hours, or a meeting of that subunit immediately following the meeting of the parent governmental body, if the meeting of that subunit is publicly announced in open session at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.
4. If another section of the Code requires a manner of giving specific notice of a meeting, hearing, or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.
5. 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)

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

(Code of Iowa, Sec. 21.3)

7. Closed Session. A closed session may be held only by affirmative vote of either two-thirds of the body or all of the members present at the meeting. A governmental body may hold a closed session only to the extent a closed session is necessary for any of the following reasons:

(Code of Iowa, Sec. 21.5)

- a. To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds.
- b. To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation.
- c. To discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings if the governmental body is a licensing or examining board.
- d. To avoid disclosure of specific law enforcement matters, such as current or proposed investigations, inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection.
- e. To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.
- f. To evaluate the professional competency of an individual whose appointment, hiring, performance or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session.
- g. To discuss the purchase of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property. The minutes and the tape recording of a session closed under this paragraph shall be available for public examination when the transaction discussed is completed.
- h. Information concerning security procedures or emergency preparedness information developed and maintained by a government body for the protection of governmental employees, visitors to the government body, persons in the care, custody, or under the control of the government body, or property under the jurisdiction of the government body, if disclosure could reasonably be expected to jeopardize such employees, visitors, persons, or property.
 1. Such information includes but is not limited to information directly related to vulnerability assessments; information contained in records relating to security measures such as security and response plans, security codes and combinations, passwords, restricted area passes, keys, and security or response procedures; emergency response protocols; and information contained in records that if disclosed would significantly increase the vulnerability of critical physical systems or infrastructures of a government body to attack.

2. This section shall only apply to information held by a government body that has adopted a rule or policy identifying the specific records or class of records to which this section applies and which is contained in such a record.
 - i. The vote of each member on the question of holding the closed session and the reason for holding the closed session by reference to a specific exemption under this section shall be announced publicly at the open session and entered in the minutes. A governmental body shall not discuss any business during a closed session which does not directly relate to the specific reason announced as justification for the closed session.
 - j. Final action by any governmental body on any matter shall be taken in an open session unless some other provision of the Code expressly permits such actions to be taken in closed session.
 - k. A governmental body shall keep detailed minutes of all discussion, persons present, and action occurring at a closed session, and shall also tape record all of the closed session. The detailed minutes and tape recording of a closed session shall be sealed and shall not be public records open to public inspection. However, upon order of the court in an action to enforce this chapter, the detailed minutes and tape recording shall be unsealed and examined by the court in camera. The court shall then determine what part, if any, of the minutes should be disclosed to the party seeking enforcement of this chapter for use in that enforcement proceeding. In determining whether any portion of the minutes or recording shall be disclosed to such a party for this purpose, the court shall weigh the prejudicial effects to the public interest of the disclosure of any portion of the minutes or recording in question, against its probative value as evidence in an enforcement proceeding. After such a determination, the court may permit inspection and use of all or portions of the detailed minutes and tape recording by the party seeking enforcement of this chapter. A governmental body shall keep the detailed minutes and tape recording of any closed session for a period of at least one year from the date of that meeting.
 - l. Nothing in this section requires a governmental body to hold a closed session to discuss or act upon any matter.
8. Cameras and Recorders. The public may use cameras or recording devices at any open session.

(Code of Iowa, Sec. 21.7)
 9. Electronic Meetings. A meeting may be conducted by electronic means only in circumstances where such a meeting in person is impossible or impractical and then only in compliance with the provisions of Chapter 21 of the Code of Iowa.

(Code of Iowa, Sec. 21.8)

5.07 CONFLICT OF INTEREST.

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars (\$2500.00) in a fiscal year.

(Code of Iowa, Sec. 362.5[11])

11. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.

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

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

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

5.08 RESIGNATIONS.

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

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

5.09 REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES.

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

(Code of Iowa, Sec. 372.15)

5.10 VACANCIES.

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

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

1. Appointment. By appointment, following public notice, by the remaining members of the Council. The appointment shall be made within sixty (60) days after the vacancy occurs and shall be for the period until the next regular City election unless there is an intervening special election for the City, in which event the election for the office shall be placed on the ballot at such special election. If the

Council chooses to proceed under this subsection, the Council shall publish notice of the appointment in accordance with Section 372.13 of the Code of Iowa. 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. Special Election. By a special election held to fill the office for the remaining balance of the unexpired term as provided by law.

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

5.11 GIFTS.

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

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

5.12 RIGHT TO EXAMINE PUBLIC RECORDS — EXCEPTIONS.

1. Every person shall have the right to examine and copy a public record and to publish or otherwise disseminate a public record or the information contained in a public record. Unless otherwise provided for by law, the right to examine a public record shall include the right to examine a public record without charge while the public record is in the physical possession of the custodian of the public record. The right to copy a public record shall include the right to make photographs or photographic copies while the public record is in the possession of the custodian of the public record. All rights under this section are in addition to the right to obtain a certified copy of a public record under Code of Iowa, section 622.46.
2. A government body shall not prevent the examination or copying of a public record by contracting with a nongovernment body to perform any of its duties or functions.
3. However, notwithstanding subsections 1 and 2, a government body is not required to permit access to or use of the following:
 - a. A geographic computer database by any person except upon terms and conditions acceptable to the governing body. The governing body shall establish reasonable rates and procedures for the retrieval of specified records, which are not confidential records, stored in the database upon the request of any person.
 - b. Data processing software developed by the government body, as provided in Code of Iowa, section 22.3A.
4. The City will not release confidential records as listed and described in Code of Iowa, Chapter 22.7.

(Code of Iowa Sec, 22.2)

5.13 SUPERVISION — FEES.

1. The examination and copying of public records shall be done under the supervision of the lawful custodian of the records or the custodian's authorized designee. The lawful custodian shall not require the physical presence of a person requesting or receiving a copy of a public record and shall fulfill requests for a copy of a public record received in writing, by telephone, or by electronic means. Fulfillment of a request for a copy of a public record may be contingent upon receipt of payment of expenses to be incurred in fulfilling the request and such estimated expenses shall be communicated to the requester upon receipt of the request. The lawful custodian may adopt and enforce reasonable rules regarding the examination and copying of the records and the protection of the records against damage or disorganization. The lawful custodian shall provide a suitable place for the examination and copying of the records, but if it is impracticable to do the examination and copying of the records in the office of the lawful custodian, the person desiring to examine or copy shall pay any necessary expenses of providing a place for the examination and copying.
2. All expenses of the examination and copying shall be paid by the person desiring to examine or copy. The lawful custodian may charge a reasonable fee for the services of the lawful custodian or the custodian's authorized designee in supervising the examination and copying of the records. If copy equipment is available at the office of the lawful custodian of any public records, the lawful custodian shall provide any person a reasonable number of copies of any public record in the custody of the office upon the payment of a fee. The fee for the copying service as determined by the lawful custodian shall not exceed the actual cost of providing the service. Actual costs shall include only those expenses directly attributable to supervising the examination of and making and providing copies of public records. Actual costs shall not include charges for ordinary expenses or costs such as employment benefits, depreciation, maintenance, electricity, or insurance associated with the administration of the office of the lawful custodian.

(Code of Iowa, Sec. 22.3)

5.14 HOURS WHEN AVAILABLE.

The rights of persons under this chapter may be exercised at any time during the customary office hours of the lawful custodian of the records. However, if the lawful custodian does not have customary office hours of at least thirty hours per week, such right may be exercised anytime City Offices are open, excluding legal holidays, unless the person exercising such right and the lawful custodian agree on a different time.

(Code of Iowa, Sec. 22.4)

5.15 UNLAWFUL USE OF CITY PROPERTY.

No person shall use or permit any other person to use City property owned or leased by the City for any private purpose and for personal gain, to the detriment of the City.

(Code of Iowa, Sec. 721.2(5))

CHAPTER 6 - CITY ELECTIONS

6.01 Nominating Method to Be Used

6.02 Nominations by Petition

6.03 Adding Name by Petition

6.04 Preparation of Petition and Affidavit

6.05 Filing, Presumption, Withdrawals, Objections

6.06 Persons Elected

6.01 NOMINATING METHOD TO BE USED.

All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.

(Code of Iowa, Sec. 376.3)

6.02 NOMINATIONS BY PETITION.

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

(Code of Iowa, Sec. 45.1)

6.03 ADDING NAME BY PETITION.

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

(Code of Iowa, Sec. 45.2)

6.04 PREPARATION OF PETITION AND AFFIDAVIT.

Each candidate shall complete and file a signed, notarized affidavit of candidacy. The affidavit shall be filed at the same time as the nomination petition. The affidavit shall be in the form prescribed by the secretary of state and shall include the following information:

1. The candidate's name in the form the candidate wants it to appear on the ballot.
2. The candidate's home address.
3. The name of the county in which the candidate resides.
4. The name of the political organization by which the candidate was nominated, if any.
5. The office sought by the candidate, and the district the candidate seeks to represent, if any.
6. A declaration that if the candidate is elected the candidate will qualify by taking the oath of office.
7. A statement that the candidate is aware that the candidate is required to organize a candidate's committee which shall file an organization statement and disclosure reports if the committee or the candidate receives contributions, makes expenditures, or incurs indebtedness in excess of the reporting threshold in Code of Iowa section 68A.102, subsection 5. This subsection shall not apply to candidates for federal office.

8. A statement that the candidate is aware of the prohibition in Code of Iowa section 49.41 against being a candidate for more than one office to be filled at the same election, except county agricultural extension council and soil and water conservation district commission.
9. A statement that the candidate is aware that the candidate is disqualified from holding office if the candidate has been convicted of a felony or other infamous crime and the candidate's rights have not been restored by the governor or by the president of the United States.

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

6.05 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS.

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

(Code of Iowa, Sec. 45.4)

6.06 PERSONS ELECTED.

In a regular city election held for a city where the council has chosen to have nominations made in the manner provided by chapter 44 or 45, 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.

CHAPTER 7 - FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control

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

7.01 PURPOSE.

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

7.02 FINANCE OFFICER.

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

7.03 CASH CONTROL.

To assure the proper accounting and safe custody of moneys the following shall apply:

1. Deposit of Funds. All moneys or fees collected for any purpose by any City officer shall be deposited through the office of the finance officer. If any said fees are due to an officer, they shall be paid to the officer by check drawn by the finance officer and approved by the Council only upon such officer's making adequate reports relating thereto as required by law, ordinance or Council directive.
2. Deposits and Investments. All moneys belonging to the City shall be promptly deposited in depositories selected by the Council in amounts not exceeding the authorized depository limitation established by the Council or invested in accordance with the City's written investment policy and State law, including joint investments as authorized by Section 384.21 of the Code of Iowa.

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

3. Petty Cash Fund. The finance officer shall be custodian of a petty cash fund not to exceed twenty-five dollars (\$25.00) 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 check for replenishment in the amount of the accumulated expenditures and said check and supporting detail shall be submitted to the Council as a claim in the usual manner for claims and charged to the proper funds and accounts. It shall not be used or salary payments or other personal services or personal expenses.

7.04 FUND CONTROL.

There shall be established and maintained separate and distinct funds in accordance with the following:

1. Revenues. All moneys received by the City shall be credited to the proper fund as required by law, ordinance or resolution.
2. Expenditures. No disbursement shall be made from a fund unless such disbursement is authorized by law,

ordinance or resolution, was properly budgeted, and supported by a claim approved by the Council.

3. Emergency Fund. No transfer may be made from any fund to the Emergency Fund.

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

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

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

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

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

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

- A. The amount of the expense of disbursements for operating and maintaining the utility or enterprise for the preceding three (3) months, and
- B. The amount necessary to make all required transfers to restricted accounts for the succeeding three (3) months. *(IAC, 545-2.5[384,388], Sec. 2.5[5])*

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

7.05 OPERATING BUDGET PREPARATION.

The annual operating budget of the City shall be prepared in accordance with the following:

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.
2. Boards and Commissions. All boards, commissions and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.
3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council no later than February 15 of each year.
4. Council Review. The Council shall review the proposed budget and may make any adjustments in the budget which it deems appropriate before accepting such proposal for publication, hearing and final adoption.

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

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

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

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

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

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

7.06 BUDGET AMENDMENTS.

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

7.07 ACCOUNTING.

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

1. Books of Original Entry. There shall be established and maintained books of original entry to provide a chronological record of cash received and disbursed.
2. General Ledger. There shall be established and maintained a general ledger controlling all cash

transactions, budgetary accounts and for recording unappropriated surpluses.

3. Checks. Checks shall be prenumbered and signed by the Clerk following Council approval, except as provided by subsection 5 hereof.
4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the Council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.
5. Immediate Payment Authorized. The Council may by resolution authorize the Clerk to issue checks for immediate payment of amounts due, which if not paid promptly would result in loss of discount, penalty for late payment or additional interest cost. Any such payments made shall be reported to the Council for review and approval with and in the same manner as other claims at the next meeting following such payment. The resolution authorizing immediate payment shall specify the type of payment so authorized and may include but is not limited to payment of utility bills, contractual obligations, payroll and bond principal and interest.
6. Utilities. The finance officer shall perform and be responsible for accounting functions of the municipally owned utilities.

7.08 FINANCIAL REPORTS.

The finance officer shall prepare and file the following financial reports:

1. Monthly Reports. There shall be submitted to the Council each month a report showing the activity and status of each fund, program, sub-program and activity for the preceding month.
2. Annual Report. Not later than December first of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

7.09 UNAUTHORIZED EXPENDITURE.

No City official or employee, or any person acting under the color of such office or employment, shall knowingly make any contract which contemplates an expenditure known by the person to be in excess of that authorized by law.

CHAPTER 8 - URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	ADOPTED	NAME OF AREA

[Next Page is 51]

ADMINISTRATION, BOARDS AND COMMISSIONS

CHAPTER 15 MAYOR

15.01 Term of Office

15.02 Powers and Duties

15.03 Appointments

15.04 Compensation

15.05 Voting

15.01 TERM OF OFFICE.

The Mayor is elected for a term of four (4) years.

(Code of Iowa, Sec. 376.2)

15.02 POWERS AND DUTIES.

The powers and duties of the Mayor are as follows:

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.

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

2. Presiding Officer. Act as presiding officer at all regular and special council meetings.

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

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

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

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

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

5. Mayor's Veto. Sign, veto or take no action on an ordinance, amendment or resolution passed by the Council. The Mayor may veto an ordinance, amendment or resolution within fourteen days (14) after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.

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

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

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

officer by law, ordinance, or Council direction.

8. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.
9. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the Council, the Mayor shall act in accordance with the Code of Ordinances and the laws of the State.
10. Licenses and Permits. Sign all licenses and permits which have been granted by the Council, except those designated by law or ordinance to be issued by another municipal officer.
11. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
12. Absentee Officer. Make appropriate provision that duties of any absentee officer be carried on during such absence.

15.03 APPOINTMENTS.

The Mayor shall appoint the following officials:

(Code of Iowa, Sec. 372.4)

1. Mayor Pro Tem
2. Police Chief
3. Peace Officers
4. Library Board of Trustees

15.04 COMPENSATION.

The salary of the Mayor is one hundred twenty-five dollars (\$125.00) per month, payable monthly.

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

15.05 VOTING.

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

(Code of Iowa, Sec. 372.4)

CHAPTER 16 MAYOR PRO TEM

16.01 Vice President of Council

16.02 Powers and Duties

16.03 Voting Rights

16.04 Compensation

16.01 VICE PRESIDENT OF COUNCIL.

The Mayor Pro Tem is vice president of the Council.

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

16.02 POWERS AND DUTIES.

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

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

16.03 VOTING RIGHTS.

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

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

16.04 COMPENSATION.

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

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

CHAPTER 17 COUNCIL

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

17.05 Appointments
17.06 Compensation
17.07 Eligibility for Appointment
17.08 Gender Balance
17.09 Council Committees

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

(Code of Iowa, Sec. 372.4 & 376.2)

17.02 POWERS AND DUTIES.

The powers and duties of the Council include, but are not limited to the following:

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

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

2. 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])

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

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

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

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

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

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

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

17.03 EXERCISE OF POWER.

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

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

1. Action by Council. Passage of an ordinance, amendment or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of one hundred thousand dollars (\$100,000) on any one project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

reason of a conflict of interest.

(Code of Iowa, Sec. 380.4)

17.04 COUNCIL MEETINGS.

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

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

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

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

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

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

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

17.05 APPOINTMENTS.

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

1. City Clerk
2. City Attorney
3. Water, Sewer and Street Superintendent
4. Economic Development Board
5. Planning and Zoning Commission
6. Zoning Board of Adjustment
7. Zoning Officer

17.06 COMPENSATION.

The salary of each Council member is thirty-five dollars (\$35.00) for each meeting of the council attended, payable semiannually.

Code of Iowa, Sec. 372.13[8])

17.07 ELIGIBILITY FOR APPOINTMENT.

A councilman is not eligible for appointment to any city office if the office has been created or the compensation of the office has been increased during the term for which he is elected.

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

17.08 GENDER BALANCE.

All appointive boards, commissions, and committees shall be gender balanced. No person shall be appointed or reappointed to any board, commission, or committee if that appointment or reappointment would cause the number of members of the board, commission, committee, or council of one gender to be greater than one-half the membership of the board, commission, or committee plus one if the board, commission, or committee is composed of an odd number of members. If the board, commission, or committee is composed of an even number of members, not more than one-half of the membership shall be of one gender. If there are multiple appointing authorities for a board, commission or committee they shall consult each other to avoid a violation of this section.

All appointive boards, commissions, and committees of the City, if not otherwise provided by law, shall be gender balanced as provided in this section unless the City has made a good faith effort to appoint a qualified person to fill a vacancy on a board, commission, or committee in compliance with this section for a period of three months but has been unable to make a compliant appointment. In complying with the requirements of this section, the City shall utilize a fair and unbiased method of selecting the best qualified applicants. This section shall not prohibit an individual whose term expires prior to January 1, 2012, from being reappointed even though the reappointment continues an inequity in gender balance. Gender balance is applicable to appointive boards, commissions, and committees of the City on and after January 1, 2012.

(Code of Iowa, Sec. 69.16A)

17.09 COUNCIL COMMITTEES.

The mayor shall appoint with approval of the council any council standing committees established by council resolution, and any special committees of the council. The standing committees shall consist of two (2) council members. The mayor shall be an ex-official member of each committee. The mayor shall appoint the standing committees at the first meeting in January following each municipal election. Special committees may be named by the mayor when deemed useful to the city.

CHAPTER 18 - CITY CLERK

18.01 Appointment and Compensation
18.02 Powers and Duties: General
18.03 Recording & Publication of Meeting Minutes
18.04 Recording Measures Considered
18.05 Publication
18.06 Authentication

18.07 Certify Measures
18.08 Records
18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal

18.01 APPOINTMENT AND COMPENSATION.

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

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

18.02 POWERS AND DUTIES: GENERAL.

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

18.03 RECORDING AND PUBLICATION OF MEETING MINUTES.

The Clerk shall attend all regular and special Council meetings and within fifteen (15) days following a regular or special meeting shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claim. The list of claims allowed shall show the name of the person or firm making the claim, the reason for the claim, and the amount of the claim. If the reason for the claims is the same, two or more claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. However, the city shall provide at its office upon request an unconsolidated list of all claims allowed. Matters discussed in closed session pursuant to Code of Iowa, Section 21.3 shall not be published until entered on the public minutes. Failure by the clerk to make publication is a simple misdemeanor. The provisions of this subsection are applicable in cities in which a newspaper is published, or in cities of two hundred population or over, but in all other cities, posting the statement in three public places in the city which have been permanently designated by ordinance is sufficient compliance with this subsection.

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

18.04 RECORDING MEASURES CONSIDERED.

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

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

18.05 PUBLICATION.

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

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

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

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

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

18.06 AUTHENTICATION.

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

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

18.07 CERTIFY MEASURES.

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

(Code of Iowa, Sec. 380.11)

18.08 RECORDS.

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

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

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

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

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

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

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

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

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

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

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

18.09 ATTENDANCE AT MEETINGS.

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

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

18.10 ISSUE LICENSES AND PERMITS.

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

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

18.11 NOTIFY APPOINTEES.

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

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

18.12 ELECTIONS.

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

1. Certify to the County Commissioner of Elections the type of nomination process to be used by the City no later than ninety (90) days before the date of the regular City election.
(Code of Iowa, Sec. 376.6)
2. Accept the nomination petition of a candidate for a City office for filing if on its face it appears to have the requisite number of signatures and is timely filed.
(Code of Iowa, Sec. 376.4)
3. Designate other employees or officials of the City who are ordinarily available to accept nomination papers if the Clerk is not readily available during normal working hours.
(Code of Iowa, Sec. 376.4)
4. Note upon each petition and affidavit accepted for filing the date and time that the petition was filed.
(Code of Iowa, Sec. 376.4)
5. Deliver all nomination petitions, together with the text of any public measure being submitted by the Council to the electorate, to the County Commissioner of Elections not later than five o'clock (5:00) p.m. on the day following the last day on which nomination petitions can be filed.

(Code of Iowa, Sec. 376.4)

18.13 CITY SEAL.

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

18.14 DUTIES OF TREASURER.

The Clerk is the City Treasurer and performs all the functions required of the position of Treasurer, as follows:

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction, including all funds received or held in custody for any board or commission or agency existing in the city created by council.
2. Record of Fund. Keep the record of each fund separate.
3. Record Receipts. Keep an accurate record of all money or securities received by the Treasurer on behalf of the City and specify the date, from whom, and for what purpose received.
4. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.
6. Deposit of Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the

- City, deposit the same in depositories selected by the Council.
7. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.
 8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.
 9. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

CHAPTER 19 CITY ATTORNEY

19.01 Appointment and Compensation

19.02 Attorney for City

19.03 Power of Attorney

19.04 Ordinance Preparation

19.05 Review and Comment

19.06 Provide Legal Opinion

19.07 Attendance at Council Meetings

19.08 Prepare Documents

19.01 APPOINTMENT AND COMPENSATION.

The Council shall appoint by majority vote a City Attorney to serve for a term of two (2) years. The City Attorney shall receive such compensation as established by resolution of the Council.

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

19.02 ATTORNEY FOR CITY.

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

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

19.03 POWER OF ATTORNEY.

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

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

19.04 ORDINANCE PREPARATION.

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

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

19.05 REVIEW AND COMMENT.

The City Attorney shall, upon request, make a report to the Council and interested department heads, giving an opinion on all contracts, documents, resolutions, or ordinances submitted to or coming under the City Attorney's notice.

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

19.06 PROVIDE LEGAL OPINION.

The City Attorney shall give advice or a written legal opinion on City contracts and all questions of law relating to City matters submitted by the Mayor, Council Members, Superintendent of Public Works or City Clerk.

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

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

19.07 ATTENDANCE AT COUNCIL MEETINGS.

The City Attorney shall attend meetings of the Council at the request of the Mayor or Council.

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

19.08 PREPARE DOCUMENTS.

The City Attorney shall, upon request, formulate drafts for contracts, forms and other writings which may be required for the use of the City.

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

CHAPTER 20 LIBRARY BOARD OF TRUSTEES

20.01 Public Library

20.02 Library Trustees

20.03 Qualifications of Trustees

20.04 Organization of The Board

20.06 Contracting With Other Libraries

20.07 Nonresident Use

20.08 Expenditures

20.09 Annual Report

20.10 Injury to Books or Property

20.11 Theft

20.12 Notice Posted

20.01 PUBLIC LIBRARY.

The public library for the City is known as the Gen. N. B. Baker Library. It is referred to in this chapter as the Library.

20.02 LIBRARY TRUSTEES.

The Board of Trustees of the Library, hereinafter referred to as the Board, consists of six (6) resident members and one (1) nonresident members. All resident members are to be appointed by the Mayor with the approval of the Council. The nonresident members are to be appointed by the Mayor with the approval of the County Board of Supervisors.

20.03 QUALIFICATIONS OF TRUSTEES.

All resident members of the Board shall be bona fide citizens and residents of the City. The nonresident members of the Board shall be bona fide citizens and residents of the unincorporated County. Members shall be over the age of eighteen (18) years.

20.04 ORGANIZATION OF THE BOARD.

The organization of the Board shall be as follows:

1. Term of Office. All appointments to the Board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third (1/3) the total number or as near as possible, to stagger the terms.
2. Vacancies. The position of any resident Trustee shall be vacated if such member moves permanently from the City. The position of a nonresident Trustee shall be vacated if such member moves permanently from the County or into the City. The position of any Trustee shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City or County. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.
3. Compensation. Trustees shall receive no compensation for their services.

20.05 POWERS AND DUTIES.

The Board shall have and exercise the following powers and duties:

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

2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.
3. Charge of Affairs. To direct and control all affairs of the Library.
4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the Board voting in favor thereof. Compensation approved by the Board must be consistent with and provided in the manner called for in the City's adopted compensation and classification system.
5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.
6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.
7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.
8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.
9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board. Salary expenditures shall be made in accordance with the City's adopted compensation and classification system.
10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.
11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City on behalf of the Library.

(Code of Iowa, Ch. 661)

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

20.06 CONTRACTING WITH OTHER LIBRARIES.

The Board has power to contract with other libraries in accordance with the following:

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

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

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

20.07 NONRESIDENT USE.

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

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

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

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

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

20.08 EXPENDITURES.

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

(Code of Iowa, Sec. 384.20 & 392.5)

20.09 ANNUAL REPORT.

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

20.10 INJURY TO BOOKS OR PROPERTY.

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

(Code of Iowa, Sec. 716.1)

20.11 THEFT.

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

(Code of Iowa, Sec. 714.1)

20.12 NOTICE POSTED.

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

1. Failure To Return. Failure to return Library materials for two (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 21 ECONOMIC DEVELOPMENT BOARD

21.01 Board Created

21.02 Membership

21.03 Purpose

21.04 Compensation

21.05 Meetings

21.06 Term of Office

21.07 Financing

21.08 Bylaws

21.01 BOARD CREATED.

The purpose of this chapter is to create a Sutherland Economic Development Board and to specify that Board's powers and duties. The Board shall be known as the Sutherland Economic Development Board and shall be referred to in this chapter as the Board.

21.02 MEMBERSHIP.

The Board shall consist of ten (10) members and shall be appointed by the Council. The Board shall make recommendations to the Council.

21.03 PURPOSE.

The purpose of the Board is to encourage business and industry to locate in the City and surrounding areas.

21.04 COMPENSATION.

The members of the Board shall receive no compensation except mileage and meeting expenses duly incurred.

21.05 MEETINGS.

All meetings will be conducted as required under State open meetings law.

21.06 TERM OF OFFICE.

Board members shall serve three-year terms, with the Board to determine the number of each term. The Board shall appoint officers as needed.

21.07 FINANCING.

All proceeds and expenditures shall go through the Clerk's office. There shall be separate accounts in accordance with the City's bookkeeping records.

21.08 BYLAWS.

The Board shall set up its own bylaws with the approval of the Council and will in no way be in opposition with this Code of Ordinances.

CHAPTER 22 PLANNING AND ZONING COMMISSION

22.01 Planning and Zoning Commission	22.04 Compensation
22.02 Term of Office	22.05 Powers and Duties
22.03 Vacancies	

22.01 PLANNING AND ZONING COMMISSION.

There shall be appointed by the Council a City Planning and Zoning Commission, hereinafter referred to as the Commission, consisting of five (5) members, who shall be residents of the City and qualified by knowledge or experience to act in matters pertaining to the development of a City plan and who shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

22.02 TERM OF OFFICE.

The term of office of the members of the Commission shall be five (5) years. The terms of not more than one-third of the members will expire in any one year.

(Code of Iowa, Sec. 392.1)

22.03 VACANCIES.

If any vacancy exists on the Commission caused by resignation, or otherwise, a successor for the residue of the term shall be appointed in the same manner as the original appointee.

(Code of Iowa, Sec. 392.1)

22.04 COMPENSATION.

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

(Code of Iowa, Sec. 392.1)

22.05 POWERS AND DUTIES.

The Commission shall have and exercise the following powers and duties:

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

6. Review and Comment of Street and Park Improvements. No plan for any street, park, parkway, boulevard, traffic-way, river front, or other public improvement affecting the City plan shall be finally approved by the City or the character or location thereof determined, unless such proposal shall first have been submitted to the Commission and the Commission shall have had thirty (30) days within which to file its recommendations thereon.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

10. Comprehensive Plan. To recommend to the council, from time to time, as conditions require, amendments, supplements, changes, or modifications in the comprehensive plan prepared by it, and recommend changes to the zoning regulations.

(Code of Iowa, Sec. 414.3 & 414.6)

11. Plans. To make such surveys, studies, maps, plans, or plats of the whole or any portion of the city and of any land outside thereof, which in the opinion of such commission bears relation to a comprehensive plan, and shall submit such plan to the council with its studies and recommendations and it may publish the same.

(Code of Iowa, Sec. 414.3 & 414.6)

CHAPTER 23 - SUTHERLAND COMMUNITY FUND BOARD

23.01 Board Created

23.02 Membership

23.03 Purpose

23.04 Compensation

23.05 Meetings

23.06 Term of Office

23.07 Financing

23.08 Bylaws

23.01 BOARD CREATED.

The purpose of this chapter is to create a Sutherland Community Fund Board and to specify that Board's powers and duties. The Board shall be known as the Sutherland Community Fund Board and shall be referred to in this chapter as the Board.

23.02 MEMBERSHIP.

The Board shall consist of 6 members and shall be appointed by the Council. The Board shall make recommendations to the council.

23.03 PURPOSE.

The purpose of the Board is to encourage, receive and administer special cash gifts in the form of bequests and memorials, as well as special gifts of possessions such as land, stocks, bonds, insurance, and all other types of real and personal property, from any and all persons and corporations. The income from this property shall be used for the purpose of furthering worthwhile community projects and dreams, as directed by the Community Fund Board. The gifts and income received into the Fund shall be utilized to support and to enhance the City of Sutherland and surrounding area that its leaders and community members see fit.

23.04 COMPENSATION.

The members of the Board shall receive no compensation except mileage and meeting expenses duly incurred.

23.05 MEETINGS.

All meetings will be conducted as required under State open meetings law.

23.06 TERM OF OFFICE.

Board members shall serve three-year terms, with the Board to determine the number of each term. The Board shall appoint officers as needed.

23.07 FINANCING.

All proceeds and expenditures shall go through the Clerk's office. There shall be separate accounts in accordance with the City's bookkeeping records.

23.08 BYLAWS.

The Board shall set up its own bylaws with the approval of the Council and will in no way be in opposition with this Code of Ordinances

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POLICE, FIRE AND EMERGENCIES

CHAPTER 30 – POLICE DEPARTMENT

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30.02 Organization
30.03 Peace Officer Qualifications
30.04 Required Training
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30.06 Peace Officers Appointed

30.07 Police Chief Duties
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons
30.11 Reserve Peace Officers
30.12 Contract Law Enforcement

30.01 DEPARTMENT ESTABLISHED.

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

30.02 ORGANIZATION.

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

30.03 PEACE OFFICER QUALIFICATIONS.

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

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

30.04 REQUIRED TRAINING.

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

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

30.05 COMPENSATION.

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

30.06 PEACE OFFICERS APPOINTED.

The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. Other officers must be selected as directed by the council.

(Code of Iowa, Sec. 372.4)

30.07 POLICE CHIEF DUTIES.

The Police Chief has the following powers and duties subject to the approval of the Council.

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

1. General. Perform all duties required of the police chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.
4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

(Code of Iowa, Sec. 321.266)

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

30.08 DEPARTMENTAL RULES.

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

30.09 SUMMONING AID.

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

(Code of Iowa, Sec. 804.17)

30.10 TAKING WEAPONS.

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

(Code of Iowa, Sec. 804.18)

30.11 RESERVE PEACE OFFICERS.

The Council may provide for the establishment of a force of reserve peace officers, and may limit the size of the reserve force.

(Code of Iowa, Sec. 80D.1)

1. TRAINING. Each person appointed to serve as a reserve peace officer shall satisfactorily complete a minimum training course as provided by the Code of Iowa.

(Code of Iowa, Sec. 80D.3)

2. STATUS. Reserve peace officers shall serve on the orders and at the discretion of the chief of police. While in actual performance of official duties, reserve peace officers shall be vested with the same rights, privileges, obligations and duties as any other peace officers.

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

3. SUPPLEMENTARY CAPACITY. Reserve peace officers shall act only in a supplementary capacity to the regular force and shall not assume full-time duties of regular peace officers without first complying with all requirements for regular peace officers.

(Code of Iowa, Sec. 80D.8)

4. UNIFORMS AND BENEFITS. Uniforms and benefits shall be provided to reserve peace officers as required by the Code of Iowa.

30.12 CONTRACT LAW ENFORCEMENT.

In lieu of the appointment of a police chief by the Mayor as provided by Section 30.06, the Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.

(Code of Iowa, Sec. 28E.20)

CHAPTER 35 - FIRE PROTECTION

35.01 Establishment & Purpose
35.02 Organization
35.03 Approved By Council
35.04 Training
35.05 Compensation
35.06 Election of Officers
35.07 Fire Chief: Duties
35.08 Obedience to Fire Chief

35.09 Constitution
35.10 Accidental Injury Insurance
35.11 Liability Insurance
35.12 Calls Outside City
35.13 Mutual Aid
35.14 Authority to Cite Violations
35.15 Emergency Rescue Service

35.01 ESTABLISHMENT AND PURPOSE.

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

(Code of Iowa, Sec. 364.16)

35.02 ORGANIZATION.

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

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

35.03 APPROVED BY COUNCIL.

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

35.04 TRAINING.

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

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

35.05 COMPENSATION.

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

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

35.06 ELECTION OF OFFICERS.

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

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

35.07 FIRE CHIEF: DUTIES.

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

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

1. 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, theaters, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for an purposes.
 - E. The installation and maintenance of private fire alarm systems and fire extinguishment equipment.

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

8. Notification. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all fires causing an estimated damage of fifty dollars (\$50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

10. 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)

11. 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.

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

35.08 OBEDIENCE TO FIRE CHIEF.

No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief.

35.09 CONSTITUTION.

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

35.10 ACCIDENTAL INJURY INSURANCE.

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

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

35.11 LIABILITY INSURANCE.

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

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

35.12 CALLS OUTSIDE 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])

35.13 MUTUAL AID.

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

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

35.14 AUTHORITY TO CITE VIOLATIONS.

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

(Code of Iowa, Sec. 100.41)

35.15 EMERGENCY RESCUE SERVICE.

The department is authorized to provide emergency rescue services and the accidental injury and liability insurance provided for herein shall include such operation.

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PUBLIC OFFENSES

CHAPTER 45 - PUBLIC OFFENSES

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45.04 Unlawful Assembly	45.17 Criminal Mischief
45.05 Failure to Disperse	45.18 Defacing Proclamations or Notices
45.06 Urinating and Defecating	45.19 Unauthorized Entry
45.07 Distributing Dangerous Substances	45.20 Trespassing Prohibited
45.08 False Reports to or Communications With Public Safety Entities	45.21 Fraud
45.09 Refusing to Assist Officer	45.22 Theft
45.10 Harassment of Public Officers and Employees	45.23 Fireworks.
45.11 Interference With Official Acts	45.24 Cigarettes, Tobacco, Alternative Nicotine or Vapor Products
45.12 Abandoned or Unattended Refrigerators	45.25 Contributing to Delinquency.
45.13 Antenna and Radio Wires	45.26 Drug Paraphernalia
	45.27 Loud, Unnecessary or Unusual Noise

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

45.02 HARASSMENT.

No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

45.03 DISORDERLY CONDUCT.

No person shall do any of the following:

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

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

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

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

3. Abusive Language. Direct abusive epithets or make any threatening gesture which the person knows

or reasonably should know is likely to provoke a violent reaction by another.

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

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

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

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

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

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

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

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

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

45.04 UNLAWFUL ASSEMBLY.

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

(Code of Iowa, Sec. 723.2)

45.05 FAILURE TO DISPERSE.

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

(Code of Iowa, Sec. 723.3)

45.06 URINATING AND DEFECATING.

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

45.07 DISTRIBUTING DANGEROUS SUBSTANCES.

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

(Code of Iowa, Sec. 727.1)

45.08 FALSE REPORTS TO OR COMMUNICATIONS WITH PUBLIC SAFETY ENTITIES.

No person shall do any of the following:

(Code of Iowa, Sec. 718.6)

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

45.09 REFUSING TO ASSIST OFFICER.

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

(Code of Iowa, Sec. 719.2)

45.10 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES.

No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

(Code of Iowa, Sec. 718.4)

45.11 INTERFERENCE WITH OFFICIAL ACTS.

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

(Code of Iowa, Sec. 719.1)

45.12 ABANDONED OR UNATTENDED REFRIGERATORS.

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

(Code of Iowa, Sec. 727.3)

45.13 ANTENNA AND RADIO WIRES.

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

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

45.14 BARBED WIRE AND ELECTRIC FENCES.

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

45.15 DISCHARGING WEAPONS.

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

45.16 THROWING AND SHOOTING.

It is unlawful for a person to throw stones, bricks or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles, BB guns or other dangerous instruments or toys on or into any street, alley, highway, sidewalk, public way, public ground or public building, without written consent of the Council.

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

45.17 CRIMINAL MISCHIEF.

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

(Code of Iowa, Sec. 716.1)

45.18 DEFACING PROCLAMATIONS OR NOTICES.

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

(Code of Iowa, Sec. 716.1)

45.19 UNAUTHORIZED ENTRY.

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

45.20 TRESPASSING PROHIBITED.

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

(Code of Iowa, Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.7(2))

45.21 FRAUD.

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

(Code of Iowa, Sec. 714.8)

45.22 THEFT.

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

(Code of Iowa, Sec. 714.1)

45.23 FIREWORKS.

The sale, use or exploding of fireworks within the City are subject to the following:

1. Definition. The term "fireworks" includes any explosive composition, or combination of explosive substances, or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and specifically includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term "*fireworks*" does not include goldstar-producing sparklers on wires which contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed one-eighth of an inch in diameter, toy snakes which contain no mercury, or caps used in cap pistols.

(Code of Iowa, Sec. 727.2)

2. Regulations. It is unlawful for any person to offer for sale, expose for sale, sell at retail, or use or explode any fireworks; provided the City may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks and other organizations or groups of individuals approved by City authorities when such fireworks display will be handled by a competent operator. No permit shall be granted hereunder unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

A. Personal Injury: \$250,000 per person

B. Property Damage: \$50,000

C. Total Exposure: \$1,000,000

(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

45.24 CIGARETTES, TOBACCO, ALTERNATIVE NICOTINE OR VAPOR PRODUCTS.

1. A person shall not sell, give, or otherwise supply any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes to any person under eighteen (18) years of age.
2. A person under eighteen years of age shall not smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes.
3. Possession of tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes by an individual under eighteen years of age does not constitute a violation under Chapter 453A.2, Code of Iowa if the individual under eighteen years of age possesses the tobacco, tobacco products, alternative nicotine products, vapor products, or cigarettes as part of the individual's employment and the individual is employed by a person who holds a valid permit under Chapter 453A, Code of Iowa or who lawfully offers for sale or sells cigarettes or tobacco products.

A person who violates this section is guilty of a misdemeanor and is subject to penalties of Iowa Code, Chapter 453A.3.

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

45.25 CONTRIBUTING TO DELINQUENCY.

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

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

45.26 DRUG PARAPHERNALIA.

(Code of Iowa, Sec. 124.414)

1. As used in this section "drug paraphernalia" means all equipment, products or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:
 - A. Manufacture a controlled substance.
 - B. Inject, ingest, inhale or otherwise introduce into the human body a controlled substance.
 - C. Test the strength, effectiveness or purity of a controlled substance.
 - D. Enhance the effect of a controlled substance.

Drug paraphernalia does not include hypodermic needles or syringes if manufactured, delivered, sold or possessed for a lawful purpose.

2. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell or possess drug paraphernalia.

45.27 LOUD, UNNECESSARY OR UNUSUAL NOISE.

Notwithstanding any other provision of this Chapter and in addition thereto, it shall be unlawful for any person to willfully make or continue or cause to be made or continued any loud, excessive offensive, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood, or which causes discomfort or annoyance to any reasonable person or normal sensitivities residing in the area by means of radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in a motor vehicle.

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

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NUISANCES AND ANIMAL CONTROL

CHAPTER 50 - NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance	50.11 Collection of Costs
50.02 Nuisances Enumerated	50.12 Installment Payment of Cost of Abatement
50.03 Other Conditions	50.13 Failure to Abate
50.05 Nuisance Abatement	50.14 Municipal Infraction Abatement Procedure
50.06 Notice to Abate Contents	50.15 Mowing and Removal of Grass, Weeds & Brush
50.07 Method of Service	50.16 Method of Service and Billing
50.08 Request for Hearing	
50.09 Abatement in Emergency	
50.10 Abatement by City	

50.01 DEFINITION OF NUISANCE.

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

(Code of Iowa, Sec. 657.1)

50.02 NUISANCES ENUMERATED.

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

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

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

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.

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

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

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

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

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

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

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

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

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

7. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. (See also Section 62.07)

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

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

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

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

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

10. Weeds, Brush. Dense growth of all weeds, vines, brush or other vegetation in the City so as to constitute a health, safety or fire hazard.

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

11. Dutch Elm Disease. Trees infected with Dutch Elm Disease. (See also Chapter 52)

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

12. Standing Water. Allowing or permitting land to remain in such a condition as to allow stagnant, standing water.

13. Community Standard. A house, building or land, visible from any public place or private premises, remaining in an unclean or disorderly condition and to a standard not conforming with other orderly premises in that vicinity.

14. Diminution of Property Values. Premises maintained in a manner causing substantial diminution in the value of other property in the neighborhood in which such premises are located.
15. Construction Site Litter. The maintenance of a construction site in such a manner that litter will not be prevented from being carried by the elements to adjoining premises.
16. Abandoned Objects. Abandoned, discarded or unused objects or equipment such as automobiles, furniture, appliances, cans or containers.
17. Compost Pile. Any compost pile which is of such a nature as to spread or harbor disease, emit unpleasant odors or harmful gas, or attract rodents, vermin or other disease-carrying pests, animals or insects.
18. Animal Control. Subject to Section 55.05 of this Code of Ordinances, the keeping within the City limits of farm animals and fowl, including but not limited to ducks, geese, chickens, turkeys, cattle, goats, swine, sheep, buffalo, horses and ponies.
19. Rock and Earth Slides. Storing or permitting the storage of material such as, but not limited to, sand, gravel, rock, earth, coal and grain in piles with side slopes in excess of the angle of repose of said material, the angle of repose being the angle that the surface of free-standing material makes with the horizontal plane without slipping, sliding or collapse of the material. (This subsection does not apply to accumulations or piles of snow or to materials stored in a building, enclosure or completely fenced area to which members of the public are not permitted access.)
20. The making available of food, salt, mineral blocks or other products for ingestion by wild or stray animals, except that the following actions shall not be considered a nuisance:
 - A. Elevated bird/squirrel feeders providing seed, grain, fruit, worms or suet for birds or squirrels.
 - B. Standing crops planted and left standing as food plots for wildlife.
 - C. Grain or other feed scattered or distributed solely as a result of normal agricultural, gardening, or soil stabilization practices.
 - D. Standing, flooded, or manipulated natural vegetation or food/seed deposited by natural vegetation.
21. Trash piles. Accumulation of rubbish or trash tending in nature to harbor or attract vermin, rodents, or other disease-carrying pests, animals or insects, or to spread or harbor disease, emit unpleasant odors or harmful gas or creating a hazard of fire.
22. Dead Animals and Other Contaminated Material. Carcasses of animals remaining exposed and unburied six hours after death, or green or slated hides left or deposited in any open or public places; the storage, collection, discharge or depositing of any liquid waste, offal, filth, garbage, refuse, dead animals, or contaminated material in any private or public place so as to threaten the health or safety of or which is offensive to the senses of any individual or the public, or which is conducive to the breeding and harborage of flies, rats, or other vermin. Game animals being processed according to Iowa Department of Natural Resources regulations are exempted.

23. Disposal of Dead Animals. The disposal of dead animals by means other than by rendering, by burying at least three feet under the surface of the ground, or by transportation to and disposal at the Northern Plains Regional Landfill.
24. Deposits on Parking. The deposit or storage of any garbage or refuse containers, brush, rubbish, grass, rocks, building materials, incinerators, or any other debris or materials on the parking or area between the sidewalk and the curb of any street, except for a period not to exceed 24 hours while awaiting removal by garbage or refuse haulers. (See also Chapters 105 and 106)
25. Rats and Other Vermin. An infestation of rats or other vermin in or upon any premises.
26. Spreading Disease. The exposure of any person to any communicable disease by unlawful act or practice.
27. Unlawful Manufacture of Drugs. The unlawful manufacture, formulation, sale, distribution, and/or use of drugs, medication, devices, materials and/or chemicals.
28. Attractive Nuisance. Failure to secure areas, building, or places against unauthorized access where such access threatens the health or safety of individuals, or is an attractive nuisance to children.
29. Debris, Refuse, Rubbish, Trash. Accumulations of unused boards, bricks, concrete or rocks, animal or vegetable products or matter, appliances, ashes, barrels (excluding burn barrels and solid waste collection barrels awaiting pickup), bones, bottles, boxes, broken glass, brush, cans, cartons, cinders, coal, crates, pallets, decayed fruits or vegetables, dirt, dust, excrement, fence wire, filth, firewood not piled or stacked neatly or systematically, flammable materials, garbage, gasoline, grass, household furniture, discarded or broken or abandoned toys, iron and other metals, junk, kegs, leaves, logs, lumber not piled or stacked neatly and systematically (must have nails removed and be in rear yard; untreated lumber must be stacked), lumber scraps, manure, nails, offal, oil, old wearing apparel, paper, plaster, plastic (discarded containers or wrappers), plumbing fixtures, putrid fish or meat entrails, rags, roof shingles, rubber, sawdust, slag slop, soot, straw, sweepings, tacks, tarpaulins not in good repair, tires (mounted or unmounted), toilets, tubs, vehicle parts, weeds, wire, wood or metal shavings, any type of solid or yard waste (bagged or unbagged), or any condition or item that would prohibit the routine maintenance of the property or adversely affect the use and habitability of nearby property and of property within the City as a whole. Foliage and shrub clippings or cuttings, leaves, brush and fallen tree limbs or debris, firewood and other yard waste may be stored in piles in a rear yard not less than two (2) feet from a lot line and should be stored temporarily pending disposal or when used for mulch or composting or firewood.
30. Furniture, Fixtures and Appliances Outdoors. Any furniture, fixture, and appliance, including sofas, divans, recliners, toilets, bathtubs, sinks and similar objects that are not designed for outdoor use but which are maintained or located on any porch, lawn, parking lot, driveway, or public right-of-way.
31. Miscellaneous. Any act done or committed or suffered to be done or committed by any person — or any substance or thing kept, maintained, placed, or found in or on any public or private place — which is annoying or damaging or injurious or dangerous to the public health or welfare or safety, and every

act or thing done, permitted, maintained, allowed, or continued on any property, public or private, by any person, which is liable to or does endanger, annoy, damage, or injure any person or inhabitant of the City or property of said person or inhabitant.

32. Vehicle Parts. Storage (other than in an enclosed building) on private property that is residentially zoned of any two or more vehicle parts, including (but not limited to) bumpers, engines, exhaust pipes, doors, fenders, hoods, mufflers, seats, windshields or windows, wheels, or any other structural, mechanical, or decorative vehicle parts.
33. Storage on Trailers or Trucks. The storage of anything on an unenclosed trailer, pickup, truck box, or like vehicles shall be treated in the same manner as storage outside of an enclosed structure. Coverage with a tarp is not considered enclosed.
34. Other Nuisances. Any matter, thing, substance, or condition within the City deemed to be a nuisance in Chapter 657 of the *Code of Iowa*, or defined as a public nuisance in Chapter 657A of the *Code of Iowa*, or its successor provisions of either of the chapters.

50.03 OTHER CONDITIONS.

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

1. Junk and Junk Vehicles (See Chapter 51)
2. Dangerous Buildings (See Chapter 145)
3. Storage and Disposal of Solid Waste (See Chapter 105)

50.04 NUISANCES PROHIBITED.

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

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT.

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

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

50.06 NOTICE TO ABATE CONTENTS.

The notice to abate shall contain:

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

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

50.07 METHOD OF SERVICE.

The notice may be served by ordinance, certified mail, or personal service to the property owner as shown by the records of the County Auditor.

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

50.08 REQUEST FOR HEARING.

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

50.09 ABATEMENT IN EMERGENCY.

If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action which may be required under this chapter without prior notice. The City shall assess the costs as provided in Section 50.11 after notice to the property owner under the applicable provisions of Sections 50.05, 50.06 and 50.07 and hearing as provided in Section 50.08.

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

50.10 ABATEMENT BY CITY.

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

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

The City may institute civil proceedings to obtain injunctive and declaratory relief or such orders of the court as are reasonable and proper to abate practices, conditions or circumstances found to be contrary to or prohibited by the provisions of this Chapter.

50.11 COLLECTION OF COSTS.

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

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

The City may collect all associated abatement expenses in a Court of Small Claims.

50.12 INSTALLMENT PAYMENT OF COST OF ABATEMENT.

Installment Payment. If the amount expended to abate the nuisance or condition exceeds \$500, the City may permit the assessment to be paid in up to ten (10) annual installments, to be paid in the manner and with the same interest as benefited property under the Code of Iowa.

(Code of Iowa, Sec. 364.13)

50.13 FAILURE TO ABATE.

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

50.14 MUNICIPAL INFRACTION ABATEMENT PROCEDURE.

A failure to abate a nuisance as defined in this Code of Ordinances or a failure to perform an action required herein, following notice as provided in this chapter, shall constitute a municipal infraction and the requirements of this chapter may be enforced under the procedures applicable to municipal infractions in lieu of the abatement procedures set forth in this chapter.

50.15 CONTROL OF VEGETATION

1. Except as provided in subparagraph B below, all property owners shall maintain their property and the abutting property outside the property owner's lot and property line and inside the curb lines of an adjacent public street, or in absence of a curb, from the traveled portion of the adjacent public street to the lot or property line at a height of not more than eight (8) inches. Property not so maintained shall be deemed a nuisance.
2. Notice Abatement; Assessment of Cost. In the event the owner of any property shall neglect or fail to comply with the preceding provisions, the City shall give notice of violation to the property owner by posting a notice on the property that the property is in violation of Section 50.15(1) of the Sutherland City Code, and if the violation is not abated within seven (7) days of the first date of

posting of the notice, the City will abate the condition and attempt to collect the cost of abatement from the property owner.

If the condition is not abated within seven (7) days of the first date notice was posted, the City shall act to control the vegetation and periodically report the cost of the abatement for each parcel of land or adjacent right-of-way through the City Council. The Council may levy and assess the reasonable cost for abatement against the parcel and certify the same to the County Auditor to be collected in the same manner as a property tax. Alternatively, the city may pursue a small claim action or a municipal infraction citation in Magistrate's Court. When said services are performed by the City, the minimum charge shall be \$100.00, along with an additional fee of \$50.00 per hour after the first hour or any fraction thereof.

3. Portions of real estate which fall within one or more of the following classifications are exempt from the requirements of this Section 50.15:
 - a. a natural wooded area, wetland or flood plain;
 - b. native prairie or meadow area;
 - c. land that is currently used for agricultural purposes;
 - d. land areas which because of slope, obstacles or standing water are impractical or unsafe to cut or mow;
 - e. gardens, landscape features or areas of natural vegetation which are planned, defined, controlled and maintained by the property owner.

Notes

EDITOR'S NOTE: A suggested form of notice for the abatement of nuisances is included in the appendix of this Code of Ordinances.

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

PROPERTY MAINTENANCE

CHAPTER 51 – GENERAL REGULATIONS

51.01. TITLE.

This ordinance may be referred to as the "Property Maintenance Code," and is herein referred to as "this Code."

51.02. PURPOSE.

The purpose of this Code is to protect the public health, safety, and welfare, esthetics and property values, by establishing minimum standards for maintenance, appearance, condition, and occupancy, and for essential utilities, facilities, and other physical components and conditions to make residential premises fit for human habitation, and to make nonresidential premises fit for use according to the purpose for which they were developed; by fixing certain responsibilities and duties upon the owners and managers, and distinct and separate responsibilities and duties upon the occupants; by authorizing and establishing procedures for inspection of premises, and enforcement of this Code; establishing penalties for violations; and providing for property repair, demolition, or vacation of premises which do not comply with this Code.

51.03. INTERPRETATION.

The provisions of this Code shall be interpreted and applied as minimum requirements, and shall not be deemed a limitation or repeal of any other power granted by the Code of Iowa.

51.04. ABROGATION AND GREATER RESTRICTIONS.

It is not the intent of this Code to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to law. Where two or more provisions apply the higher standard shall prevail.

51.05. SEVERABILITY.

If a section, provision, or part of this Chapter is adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this code as a whole or any section, provision, or part hereof not adjudged invalid or unconstitutional.

51.06. DEFINITIONS.

Words used in this Chapter shall have the same meaning as that defined by the Zoning Ordinance, unless otherwise defined by this Code.

- A. Abandoned Building. Any building or portion of a building under construction which has stood with an incomplete exterior shall for more than one year, or any completed building or portion thereof

which has stood unoccupied for longer than six (6) months, and which is unsecured or has Housing Code or Building Code violations.

- B. Deterioration. A state of conditions caused by a lack of maintenance or excessive use, characterized by holes, breaks, rot, crumbling, peeling paint, rusting, or other evidence of physical decay or neglect.
- C. Enforcement Officer. The City Mayor or his/her appointee.
- D. Exposed to Public View. Any premises or any part thereof which may be lawfully viewed by the public or from adjoining premises.
- E. Exterior. Yards and other open outdoor spaces on premises, and the external surfaces of any structure.
- F. Infestation. The presence of insects, rodents, vermin, or other pests on the premises to the extent that they constitute a health hazard, are deemed by an Enforcement Officer to be in threat of spreading to adjoining premises, or are exposed to public view.
- G. Junk. Any discarded or salvaged material or fixture; obsolete or inoperable machinery or vehicle or parts thereof; or scrap metal.
- H. Nuisance. Physical conditions that are dangerous or detrimental to the health or safety of persons on or near the premises where the conditions exist, or anything that is injurious to the senses or interferes with the comfortable enjoyment of life or property.
- I. Owner. Any person who alone, jointly, or severally with others, holds legal or equitable title to any premises, with or without accompanying actual possession thereof.
- J. Premises. A lot, plot, or parcel of land together with the structures thereon.
- K. Public Authority. Any officer of any department or branch of the City, County, or State charged with regulating health, fire, zoning, or building regulations, or other activities concerning property in the City.
- L. Refuse. Any material that has lost its value for the original purpose for which it was created or manufactured, or for its redesigned use, whether putrescible or non-putrescible, combustible or non-combustible, which is not securely stored in a building or legal outdoor storage yard for prompt disposal or resale, including but not limited to junk; paper or cardboard; plastic; metals; glass; yard clippings; leaves; woody vegetative trimmings, and other plant wastes which have not been properly composted; vegetable or animal waste resulting from the handling, processing, storage, preparation, serving or consumption of food; crockery; bedding, furniture, or appliances; offal; rubbish; ashes or incinerator residue; construction debris; accumulation of animal feces; dead animals; or wastes from commercial or industrial processes.
- M. Responsible Party. Any person having possession, charge, care or control of real or personal property, whether with or without the knowledge and consent of the owner, including without limitation any one or more of the following; owner, agent, property manager, contract purchaser, mortgagee or vendee in

possession , receiver, executor, trustee, lessee or tenant, or any other person, firm or corporation exercising apparent control over a property.

- N. Vehicle. Any device designed to transport a person or property by land, air, or water, such as automobiles, trucks, motorcycles, tractors, buggies, wagons, boats, airplanes, motor homes, travel trailers, or any combination thereof, except bicycles.
- O. Inoperable Vehicle. Any vehicle that is not licensed for the current year as required by law or which exhibits any of the following characteristics: cannot legally travel on a public street due to broken, damaged, or missing windshield or other glass customary to the vehicle, fender, door, bumper, hood, wheel, steering wheel, or exhaust system, lacking an *engine* or other means of power suitable to the design, one or more wheels, or other structural parts which renders the vehicle incapable of both forward and reverse movement in the manner for which it was designed; has become a habitat for rats, mice, snakes, or other vermin or insects; or constitutes a threat to the public health and safety because of its defective or obsolete condition.
- P. Yard. That portion of the premises exterior which is not paved or gravel or rock covered.

MAINTENANCE STANDARDS

51.07 GENERAL.

The exterior of every premises and structure shall be maintained in good repair, to the end that the premises and each structure thereon will be preserved; adjoining properties from blighting influences; and safety and fire hazards eliminated.

51.08 MAINTENANCE OF PREMISES.

Each and every premises shall be kept free of all nuisances, health, safety, and fire hazards, unsanitary conditions, and infestation. It shall be the duty of the responsible party to keep the premises free of all said conditions and to promptly remove and abate the same which include but are not limited to the following declared nuisances:

- A. Weeds or grasses allowed to grow to a height greater than twelve (12) inches on the average, or any accumulation of dead weeds or grass that are exposed to public view, on any non-farm property which is not within the jurisdiction of the County weed Commissioner. This provision shall not apply to prairies, wetlands, or similar areas of naturalized perennial vegetation which are certified by an Enforcement Officer to not constitute a nuisance.
- B. Accumulation of refuse to the prejudice of others.
- C. Any structure which is in such a dilapidated condition that it is unfit for human habitation or the use for which it was constructed; kept in such an unsanitary condition that it is a menace to the health of people residing therein or in the vicinity thereof; or any building that is defined as abandoned or a public nuisance by Chapter 657A, Code of Iowa, 2016.
- D. Any inoperable vehicle which is exposed to public view, unless located on the premises of a lawfully operated junk yard or undergoing repairs in an expeditious manner at vehicle repair business.

- E. Mud, dirt, gravel or other debris or matter, whether organic or inorganic, deposited upon public property in a quantity judged by an enforcement officer to be a threat to public safety or to cause pollution, obstruction, or siltation of drainage systems, or to violate solid waste disposal regulations.
- F. Failure to establish a permanent cover of perennial grasses or ornamental ground cover on any non-farm property as soon as practical after any construction and to thereafter maintain same in such condition as to substantially bind the surface of the soil and prevent erosion, whether by sheet or gully, or by wind or water.

Exceptions shall be permitted for densely shaded areas, landscape beds, and gardens, provided that vegetable gardens and agricultural crops shall not be placed in the front yard of a non-farm property, unless it can be demonstrated that no other viable location exists on the premises because of topography, natural vegetation, or similar circumstances out of the resident's control.
- G. Any nuisance as defined herein or described as such in Chapter 657 of the Code of Iowa, 2016.
- H. Any alteration, modification, or obstruction which prevents, obstructs or impedes the normal flow of runoff from adjacent lands, or any alteration or modification which substantially concentrates or increases the flow of water onto an adjoining premises.
- I. Conditions which are conducive to the harborage or breeding of vermin.
- J. Facilities for the storage or processing of sewage, such as privies, vaults, sewers, private drains, septic tanks which do not function properly, as may be evidenced by overflow, leakage, seepage, or emanation of odors, or which do not comply with the O'Brien County Department of Health regulations, as applicable. Septic tanks, cisterns, and cesspools which are no longer in use shall be removed, or emptied and filled with clean dirt or sand.
- K. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose elements.
- L. Dead or diseased trees or other woody vegetation which may lead to the spread of the disease to other specimens or pose a threat to safety or building; major parts thereof, such as limb, which may be dead or broken or otherwise pose a threat to safety or buildings on adjoining premises; any vegetation located on private property which overhangs and is less than 15 feet above the traveled portion of any public street, or less than seven feet vertically, or which protrudes into any public sidewalk.
- M. Loose, overhanging objects or accumulations of ice or snow, which by reason of location above ground level constitute a danger of falling on persons in the vicinity thereof.
- N. Any vehicle parked on a yard which is exposed to public view, unless the owner has obtained a parking permit from the enforcement officer.

51.09 BUILDING MAINTENANCE.

Every building shall be maintained to be weather and water tight and free from excessive peeling paint or other conditions suggestive of deterioration or inadequate maintenance. Exterior surfaces shall not have any holes or broken glass; loose, cracked, or damaged shingles or siding; or other defects in the exterior finish which admit rain, cold air, dampness, rodents, insects, or vermin. Basements, cellars, and crawl spaces shall be free of standing water and hazards. All wood, including floorboard, subfloors, exterior floor, wall, roof or other part of the structure, shall be maintained to be free of cracks affecting structural integrity, termite damage, infestation, or rot. Any and all damaged or deteriorating materials shall be replaced. If infestation exists in any basement, cellar, or crawl space, such infestation shall be remedied in accordance with industry standards.

51.10 REFUSE AND INOPERABLE VEHICLES.

Inoperable vehicles shall be stored within a fully enclosed building or other location not exposed to public view, or shall be removed from the premises. All refuse shall be contained in suitable collection containers; kept free from infestation; and shall be removed weekly.

VIOLATIONS

51.11 ENFORCEMENT.

The creation or maintenance of a violation of this ordinance is prohibited and shall constitute a misdemeanor. Each day that a violation is permitted to continue constitutes a separate offense.

All inspections, enforcement actions, and hearings on violations, unless expressly stated to the contrary, shall be under the direction and supervision of an Enforcement Officer, who may appoint or designate other public officers or employees to perform duties as may be necessary to enforce this Code, including inspections and holding of hearings. The Enforcement Officer is hereby authorized to abate such violations in accordance with the procedures of Chapter 50, Nuisance Abatement Procedure, and to serve notice to abate same, whether upon the owner or other responsible party for a premises upon which a violation is being maintained, or upon the person or persons causing or maintaining the violation. Nothing in this section precludes the City from utilizing the municipal infraction procedure referred to in Chapter 50. The City has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure, a municipal infraction or if the violation is to be prosecuted as a misdemeanor.

Editor's Note: Chapter 51 was approved by Council on February 2, 1999

Section 51.11 Enforcement was amended at time of updating Code in 2016

CHAPTER 52 - DISEASE & DEAD TREE CONTROL

52.01 Dead or Diseased Tree Removal on Private Property
52.02 Duty to Remove
52.03 Inspection

52.04 Removal from City Property
52.05 Removal from Private Property
52.06 Reasonable Certain

52.01 DEAD OR DISEASED TREE REMOVAL ON PRIVATE PROPERTY.

The city shall notify the owner of any tree, shrub, bush or other woody vegetation located on private property to remove the tree, bush, shrub or other woody vegetation when such plant constitutes a public nuisance or is a hazard to person or property, or harbors insects, other pests, or disease. The city shall notify in writing the property owner of the property on which such tree, shrub, bush or other woody vegetation is located of the necessity to remove same. Upon such notice, the owner shall remove the planting at the owner's expense within thirty (30) days. Notice shall either be given by personal service or by certified mail with return receipt barring the signature of the property owner. In the event the property owner fails to comply with the notice, the city may force compliance by legal process and if granted authority to perform the required action, may there after assess the costs against the property for collection in the same manner as a property tax. Code of Iowa, Chapter 364.12(3)(h) allows the City in an emergency to perform any action which may be required to abate the emergency without prior notice, and assess the costs as provided in Chapter 364.12, after notice to the property owner and hearing.

52.02 DUTY TO REMOVE.

No person, firm or corporation shall permit any diseased tree, dead wood to remain on the premises owned, controlled or occupied by the person within the City.

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

52.03 INSPECTION.

The City shall inspect or cause to be inspected all premises and places within the City to determine whether any condition as defined in Section 4.01 of this Article exists thereon, and shall also inspect or cause to be inspected any trees reported or suspected to constitute a public nuisance, a hazard to person or property, or harbors insects, other pests, or disease.

52.04 REMOVAL FROM CITY PROPERTY.

If the City, upon inspection or examination, in person or by some qualified person acting for the City, shall determine that any condition as herein defined exists in or upon any public street, alley, park or any public place, including the strip between the curb and the lot line of private property within the City, and that the danger of other trees, shrubs, bushes, or woody vegetation within the City is imminent, the City shall immediately cause the tree, shrub, bush or woody vegetation to be removed and burned or otherwise correct the same in such manner as to destroy or prevent as fully as possible the spread of disease, or insect pests, or vectors known to carry such disease, insects, and/or fungus.

52.05 REMOVAL FROM PRIVATE PROPERTY.

If the City upon inspection or examination, in person or by some qualified person acting for the City, shall determine with reasonable certainty that any condition as herein defined exists in or upon private premises, and that the danger to other trees within the City is imminent, he/she shall immediately notify by certified mail or personal delivery to the occupant or person in charge of such property, to correct such condition within thirty (30) days of said notification. If such owner, occupant or person in charge of said property fails to comply within thirty (30) days of receipt thereof, the Council may cause the nuisance to be removed and the cost assessed against the property for collection in the same manner as a property tax.

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

52.06 REASONABLE CERTAINTY.

If the City is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected, diseased, or harboring insects or pests, a City representative is authorized to remove or cut specimens from said tree, and obtain a diagnosis of such specimens.

CHAPTER 55 - ANIMAL PROTECTION AND CONTROL

55.01 Definitions

55.02 Animal Neglect

55.03 Livestock Neglect

55.04 Abandonment of Cats and Dogs

55.05 Livestock

55.06 At Large Prohibited

55.07 Damage or Interference

55.08 Annoyance or Disturbance

55.09 Rabies Vaccination

55.10 Owner's Duty

55.11 Confinement

55.12 Summons Issued

55.13 Pet Awards Prohibited

55.14 Pets & Hobby Animals Other Than Dogs And Cats

55.15 Dead Animals

55.16 Sanitation

59.17 Animals In Motor Vehicles; Rescue

59.18 Number Of Domestic Animals

59.19 Females In Heat

55.01 DEFINITIONS.

The following terms are defined for use in this chapter.

1. "Advertise" means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means a nonhuman vertebrate.

(Code of Iowa, Sec. 717B.1)

3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
4. "Business" means any enterprise relating to any of the following:
 - A. The sale or offer for sale of goods or services.
 - B. A recruitment for employment or membership in an organization.
 - C. A solicitation to make an investment.
 - D. An amusement or entertainment activity.
5. "Fair" means any of the following:
 - A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the Code of Iowa or any fair event conducted by a fair under the provisions of Chapter 174 of the Code of Iowa.
 - B. An exhibition of agricultural or manufactured products.
 - C. An event for operation of amusement rides or devices or concession booths.
6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the Code of Iowa.

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

(Code of Iowa, Sec. 717.1)

8. "Owner" means any person owning, keeping, sheltering or harboring an animal.
9. "Pet" means a living dog, cat or an animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.

55.02 ANIMAL NEGLECT.

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

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

55.03 LIVESTOCK NEGLECT.

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

(Code of Iowa, Sec. 717.2)

55.04 ABANDONMENT OF CATS AND DOGS.

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

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

55.05 LIVESTOCK.

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

55.06 AT LARGE PROHIBITED.

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

55.07 DAMAGE OR INTERFERENCE.

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

55.08 ANNOYANCE OR DISTURBANCE.

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

55.09 RABIES VACCINATION.

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

(Code of Iowa, Sec. 351.33)

55.10 OWNER'S DUTY.

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

(Code of Iowa, Sec. 351.38)

55.11 CONFINEMENT.

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

(Code of Iowa, Sec. 351.39)

55.12 SUMMONS ISSUED.

The owner of any dog or other animal shall be issued a summons to appear before a proper court to answer charges of permitting such dog or animal to be at large in violation of this chapter.

55.13 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
 - A. A prize for participating in a game.
 - B. A prize for participating in a fair event.
 - C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
 - D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.
2. Exceptions. This section does not apply to any of the following:
 - A. A pet shop licensed pursuant to Section 162.5 of the Code of Iowa if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.
 - B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

55.14 PETS AND HOBBY ANIMALS OTHER THAN DOGS AND CATS.

1. Definitions. For purposes of this section, the following terms shall mean:
 - A. AT LARGE: An animal that is off the premises of the owner and not on a leash or otherwise under the immediate control of a person physically capable of restraining the animal.
 - B. BIRDS: Parakeets, pigeons, birds of prey, pheasants, quail and other similar birds that are kept as pets or for hobby purposes. Chickens, geese and ducks are considered "farm animals" and may not be kept as household pets.
 - C. FISH AND AMPHIBIANS: Shall include frogs, toads and aquatic animals that are kept as pets or for hobby purposes.
 - D. HOUSEHOLD PETS AND HOBBY ANIMALS: "Mammals", "birds", fish, amphibians, arachnids, insects, and "reptiles" as specifically defined in this section.
 - E. MAMMALS: Rabbits, ferrets, mongoose, mink and similar small animals (not include dogs and cats), and potbellied pigs that are kept as pets or for hobby purposes.
 - F. OWNER: Any person having temporary or permanent custody of, sheltering, having charge of, harboring, exercising control over or having property rights to any animal covered by this section.
 - G. REPTILES: Nonconstrictor snakes, lizards, geckos, salamanders, chameleons, iguanas, alligators and crocodiles less than thirty inches (30") in length, and similar reptiles that are

kept as pets or for hobby purposes and that are not prohibited under the provisions of Section 55.14 of this chapter.

- H. UNDER RESTRAINT: That an animal is secured by a leash or lead or under the control of a person physically capable of restraining the animal and obedient to that person's commands, or securely enclosed within the real property limits of the owner's premises.
- 2. Permitted Household Pets and Hobby Animals. "Household pets and hobby animals", as defined in subsection 1 of this section, may be kept within the City only in compliance with subsections 3, 4, 5 and 6 of this section.
 - 3. Limitation on the Number of Animals.
 - A. There shall be no numerical limitation on the number of animals described in subsection 1 of this section that are kept and maintained exclusively within the residence of the owner.
 - B. The following animals may be kept on residential premises outside the residence of the owner, but shall be subject to the following numerical limitations, which shall be the maximum number of animals permitted at any single location at any one time.
 - (1) Maximum number of mammals is four (4).
 - (2) Fish and amphibians, no more than fifty (50) in number.
 - (3) Birds, no more than thirty (30) in number.
 - 4. Sanitation.
 - A. No owner or custodian of any animal shall cause or allow such animal to soil, defile or defecate on any property, except the premises of the owner, unless such owner immediately removes and disposes of all deposits by such animals.
 - B. No person owning, harboring, keeping, or in charge of an animal within the City shall permit any waste matter from the animal to collect and remain on the property of the owner so as to cause or create an unhealthy, unsanitary, dangerous, or offensive condition, or so as to create an odor.
 - C. No person owning, harboring, keeping or in charge of any animal shall cause unsanitary, dangerous or offensive conditions by virtue of the size or number of animals maintained at a single location or due to the inadequacy of the facilities.
 - 5. Nuisances. No person shall keep animals subject to the provisions of this section which cause a "public nuisance". A "public nuisance" shall include:
 - A. Any animal that is repeatedly found at large.
 - B. Any animal that makes disturbing noises, including, but not limited to, continued and repeated howling, barking, whining or other utterances causing unreasonable annoyance, disturbance or discomfort to neighbors or others in close proximity to the premises where the animals are kept.
 - C. Any animal that causes fouling of the air by noxious or offensive odors and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animals are kept.

- D. Any animal, whether or not on the property of its owner, that, without provocation, molests, attacks, or otherwise interferes with the freedom of movement of persons on a public right of way.
 - E. Any animal that attacks domestic animals.
 - F. Any animal that causes unsanitary conditions in enclosures or surrounding where the animal is kept.
 - G. Any animal that is offensive or dangerous to the public health, safety or welfare by virtue of the number of animals maintained at a single location, or the inadequacy of the facilities.
 - H. Any animals kept for commercial purposes.
6. Commercial Use Prohibited. No persons shall keep animals covered by this section for commercial purposes, except on premises where such commercial use is permitted under the City's zoning ordinances or exclusively within the owner's residence. The following facts shall be considered evidence of commercial activity:
- A. The advertising of animals for sale.
 - B. The continuing periodic sale of animals.
 - C. Keeping animals in excess of the numerical limits established under subsection 3 of this section.
 - D. Licensing, registration or certification of the keeper of such animals as a "dealer".
 - E. The holding of an Iowa sales tax permit related to the sale of animals.
 - F. Reporting activities in connection with such animals as a business on any legally required document, report, or tax return.
 - G. Any other factors that indicate commercial activity.

55.15 DEAD ANIMALS.

The owner of any dead animal within the City shall properly bury or otherwise properly dispose of the same within twenty-four (24) hours.

55.16 SANITATION.

It is unlawful for any owner, keeper or walker of any animal to permit said animal to discharge said animal's feces upon any public or private property within the City, other than the property of the owner of the animal, if such owner, keeper or walker does not immediately thereafter remove and/or cleanup said animal's feces from the public or private property. In addition, it is unlawful for the owner or person in charge of any dog, cat or other animal to fail to keep the premises where the animal is kept in a clean and sanitary condition at all times. No owner shall allow waste matter from the animal to collect and remain on the property of the owner so as to cause or create an unhealthy, unsanitary, dangerous, or offensive condition, or so as to create an odor. Wastes on owner, keeper or harbors property shall be cleaned up and properly disposed of at least once every 24 hours. The

provisions of this Section shall not apply to dogs used to guide the visually impaired while such dogs are acting in such capacity.

55.17 ANIMALS IN MOTOR VEHICLES; RESCUE.

No person shall leave an animal unattended in, or tethered to, a standing or parked motor vehicle, in a manner that endangers the health or safety of the animal.

The following persons may use reasonable means, including reasonable force to remove an animal from a motor vehicle when there is an apparent violation of this section.

- (1) peace officer
- (2) fire department personnel

The person rescuing the animal shall notify the Mayor or City Clerk and animal shall be taken to a veterinarian for treatment, if necessary. The cost of such treatment shall be paid by the City and the City shall claim reimbursement from the person judged to be responsible for leaving the animal unattended.

55.18 NUMBER OF DOMESTIC ANIMALS.

The total number of cats and dogs older than three (3) months shall not exceed two (2) dogs and two (2) cats per residence or place of business (excluding bona pet stores, animal grooming shop, licensed kennel, educational institute, circus, carnival or veterinary hospital treating such animals). A dog or canine, or a cat or feline is considered full-grown at the age of twelve (12) weeks of age.

56.19 FEMALES IN HEAT.

The owner of any female dog or cat in heat shall confine the female dog or cat in a building or a cage/kennel or keep the same in said owner's presence so that the female dog or cat cannot come into contact with another animal except for planned breeding. Furthermore, any female animal in estrus shall be deemed at large at any time except:

- a. When housed in a building which is completely enclosed;
- b. When housed in a veterinary hospital or boarding kennel licensed or registered with the State;
- c. When on the premises of the owner, provided the area in which such animal is located is completely enclosed by a fence or other structure having a height of at least sixty (60) inches; or
- d. When under the control of a person competent to restrain the animal, either by leash or properly restrained within a motor vehicle.

CHAPTER 56 DANGEROUS AND VICIOUS ANIMALS

56.01 DEFINITIONS.

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

1. "Dangerous animal" means (a) any animal; which is not naturally tame or gentle, and which is of a wild nature or disposition, and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so; (b) any animal declared to be dangerous by the County Board of Health or Council or its designee; and (c) the following animals, which are deemed to be dangerous animals per se:
 - A. Lions, tigers, jaguars, leopards, cougars, lynx and bobcats;
 - B. Wolves, coyotes and foxes;
 - C. Badgers, wolverines, weasels, skunk and mink;
 - D. R a c c o o n s ;
 - E. B e a r s ;
 - F. Chimpanzees;
 - G. B a t s ;
 - H. Alligators and crocodiles;
 - I. Scorpions, venomous spiders and insects
 - J. Snakes that are venomous, or constrictors;
 - K. Lizards e.g. iguanas, Gila monsters;
2. "Vicious animal" means any animal, except for a dangerous animal per se, as listed above, that has bitten or clawed a person or persons and the attack was unprovoked, or when propensity to attack or bite persons exists and is known or ought reasonably to be known to the owner, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal (a) has bitten or clawed a person or persons on two separate occasions within a twelve-month period; or (b) did bite or claw once causing injuries above the shoulders of a person; or (c) could not be controlled or restrained by the owner at the time of the attack to prevent the occurrence; or (d) has attacked any domestic animal or fowl on three separate occasions within a twelve-month period.

56.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED.

No person shall keep, shelter or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any other purpose or in any other capacity within the City except in the following circumstances:

1. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibit or show.
2. The keeping of dangerous animals in a bona fide, licensed veterinary hospital for treatment.
3. Any dangerous animals under the jurisdiction of and in the possession of the Iowa Department of Natural Resources, pursuant to Chapters 481A and 481B of the Code of Iowa.

56.03 KEEPING OF VICIOUS ANIMALS PROHIBITED.

No person shall keep, shelter or harbor for any reason within the City a vicious animal except in the following circumstances:

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

56.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.

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

3. The order to remove a dangerous animal or vicious animal issued by the Mayor may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order of the Mayor.
4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Mayor. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.
5. If the Council affirms the action of the Mayor, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City, permanently place such animal with an organization or group allowed to possess dangerous or vicious animals or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor is not appealed and is not complied with within three (3) days or the order of the Council after appeal is not complied with within three (3) days of its issuance, the Mayor is authorized to seize, impound or destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor issued pursuant to this chapter and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

(Ordinance 2005-2, approved November 7, 2005)

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TRAFFIC AND VEHICLES

CHAPTER 60 ADMINISTRATION OF TRAFFIC CODE

60.01 Title

60.02 Definitions

60.03 Administration and Enforcement

60.04 Power to Direct Traffic

60.05 Traffic Accidents: Reports

60.06 Peace Officer's Authority

60.07 Obedience to Peace Officers

60.08 Parades Regulated

60.01 TITLE.

Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "Sutherland Traffic Code."

60.02 DEFINITIONS.

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

(Code of Iowa, Sec. 321.1)

1. "Business District" means the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.
2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.
3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations in addition to its meaning in section 801.4 Code of Iowa.

(Code of Iowa, Sec. 321.1 (50))

4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.
5. "School district" means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.
7. "Stop" means when required, the complete cessation of movement.
8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.

9. "Suburban district" means all other parts of the City not included in the business, school or residence districts.
10. "Traffic control device" means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.
(Code of Iowa Sec. 321.1 (46))
11. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.
(Code of Iowa Sec. 321.1 (90))

60.03 ADMINISTRATION AND ENFORCEMENT.

Provisions of this Traffic Code and State law relating to motor vehicles and law of the road are enforced by the peace officer.

60.04 POWER TO DIRECT TRAFFIC.

A peace officer, and, in the absence of a peace officer, any officer of the fire department when at the scene of a fire, or emergency or assisting law enforcement at the location of a traffic accident or when assisting peace officers, is authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.

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

60.05 TRAFFIC ACCIDENTS: REPORTS.

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

(Code of Iowa, Sec. 321.273 & 321.274)

60.06 PEACE OFFICER'S AUTHORITY.

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

(Code of Iowa, Sec. 321.492)

60.07 OBEDIENCE TO PEACE OFFICERS.

No person shall willfully fail or refuse to comply with any lawful order or direction of any peace officer invested by law with authority to direct, control, or regulate traffic.

(Code of Iowa, Sec. 321.229)

60.08 PARADES REGULATED.

No person shall conduct or cause any parade on any street except as provided herein:

1. "Parade" Defined. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. Approval Required. No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall provide information concerning the time and date for the parade and the streets or general route therefor, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.
3. Parade Not A Street Obstruction. Any parade for which approval has been given 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 Peace Officers 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.

CHAPTER 61 - TRAFFIC CONTROL DEVICES

61.01 Installation.

61.02 Crosswalks.

61.03 Traffic Lanes.

61.04 Standards.

61.05 Compliance.

61.01 INSTALLATION.

The Council shall cause to be placed and maintained traffic control devices when and as required under this Traffic Code or under State law or emergency or temporary traffic control devices for the duration of an emergency or temporary condition as traffic conditions may require to regulate, guide or warn traffic. The Council shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.255)

61.02 CROSSWALKS.

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

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

61.03 TRAFFIC LANES.

The Council is hereby authorized to mark lanes for traffic on street pavements at such places as traffic conditions require, consistent with the traffic code of the City. Where such traffic lanes have been marked, it is unlawful for the operator of any vehicle to fail or refuse to keep such vehicle within the boundaries of any such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

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

61.04 STANDARDS.

Traffic control devices shall comply with standards established by *The Manual of Uniform Traffic Control Devices for Streets and Highways*.

(Code of Iowa, Sec. 321.255)

61.05 COMPLIANCE.

No driver of a vehicle shall disobey the instructions of any official traffic control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer, subject to the exceptions granted the driver of an authorized emergency vehicle under Section 321.231 of the Code of Iowa.

(Code of Iowa, Sec. 321.256)

CHAPTER 62 - GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Tampering With Vehicle

62.07 Obstructing View at Intersections
62.08 Reckless Driving
62.09 Open Containers in Motor Vehicles
62.10 Careless Driving
62.11 Milling
62.12 Engine Brakes & Compression Brakes

62.01 VIOLATION OF REGULATIONS.

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.20B – Proof of security against liability; driving without liability coverage.
3. Section 321.32 – Registration card, carried and exhibited.
4. Section 321.37 – Display of plates.
5. Section 321.38 – Plates, method of attaching, imitations prohibited.
6. Section 321.79 – Intent to injure.
7. Section 321.91 – Penalty for abandonment.
8. Section 321.98 – Operation without registration.
9. Section 321.99 – Fraudulent use of registration.
10. Section 321.174 – Operators licensed.
11. Section 321.174A – Operation of motor vehicles with expired license.
12. Section 321.178(2) – Use of Electronic Communication Devices While Driving – Work Family Permits.
13. Section 321.180 – Instruction permits.
14. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.

15. Section 321.180B (6A) – Use of Electronic Communication Devices While Driving – Instructional Permit or Intermediate Driver License.
16. Section 321.193 – Restricted licenses.
17. Section 321.194 – Special minor’s licenses.
18. Section 321.194(1)(c)– Use of Electronic Communication Devices While Driving – 14-18 Years Special Minor’ License.
19. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
20. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
21. Section 321.216C – Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes or tobacco products.
22. Section 321.218 - Operating without valid driver's license or when disqualified.
23. Section 321.219 – Permitting unauthorized minor to drive.
24. Section 321.220 – Permitting unauthorized person to drive.
25. Section 321.221 – Employing unlicensed chauffeur.
26. Section 321.222 – Renting motor vehicle to another.
27. Section 321.223 – License inspected.
28. Section 321.224 – Record kept.
29. Section 321.232 – Radar jamming devices; penalty.
30. Section 321.234A – All-terrain vehicles.
31. Section 321.235A – Electric personal assistive mobility devices.
32. Section 321.256 Obedience to official traffic-control devices.
33. Section 321.257 – Official traffic control signal.
34. Section 321.259 – Unauthorized signs, signals or markings.
35. Section 321.260 – Interference with devices, signs or signals; unlawful possession - traffic signal preemption devices.
36. Section 321.262 – Damage to vehicle.

37. Section 321.263 – Information and aid.
38. Section 321.264 – Striking unattended vehicle.
39. Section 321.265 – Striking fixtures upon a highway.
40. Section 321.275 – Operation of motorcycles and motorized bicycles.
41. Section 321.276 - Use of Electronic Communication Devices While Driving – Text Messaging.
42. Section 321.278 – Drag racing prohibited.
43. Section 321.284 – Open containers in motor vehicles – drivers.
44. Section 321.284A – Open containers in motor vehicles – passengers.
45. Section 321.288 – Control of vehicle; reduced speed.
46. Section 321.295 – Limitation on bridge or elevated structures.
47. Section 321.297 – Driving on right-hand side of roadways; exceptions.
48. Section 321.298 – Meeting and turning to right.
49. Section 321.299 – Overtaking a vehicle.
50. Section 321.302 – Overtaking and otherwise.
51. Section 321.303 – Limitations on overtaking on the left. (Unsafe Passing)
52. Section 321.304 – Prohibited passing.
53. Section 321.306 – Roadways laned for traffic.
54. Section 321.307 – Following too closely.
55. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
56. Section 321.309 – Towing; convoys; drawbars.
57. Section 321.310 – Towing four-wheel trailers.
58. Section 321.311 – Turning at intersections.
59. Section 321.312 – Turning on curve or crest of grade.
60. Section 321.313 – Starting parked vehicle.
61. Section 321.314 – When signal required.

62. Section 321.315 – Signal continuous.
63. Section 321.316 – Stopping.
64. Section 321.317 – Signals by hand and arm or signal device.
65. Section 321.318 – Method of giving hand and arm signals.
66. Section 321.319 – Entering intersections from different highways.
67. Section 321.320 – Left turns; yielding.
68. Section 321.321 – Entering through highways.
69. Section 321.322 – Vehicles entering stop or yield intersection.
70. Section 321.323 – Moving vehicle backward on highway.
71. Section 321.323A – Approaching certain stationary vehicles.
72. Section 321.324 – Operation on approach of emergency vehicles.
73. Section 321.324A – Funeral processions.
74. Section 321.325 – Pedestrians subject to signals.
75. Section 321.327 – Yield to pedestrians in crosswalks.
76. Section 321.328 – Pedestrian failing to use crosswalk.
77. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
78. Section 321.330 – Use of crosswalks.
79. Section 321.331 – Pedestrians soliciting rides.
80. Section 321.332 – White canes restricted to blind persons.
81. Section 321.333 – Duty of drivers.
82. Section 321.340 – Driving through safety zone.
83. Section 321.341 – Obedience to signal of train.
84. Section 321.342 – Stop at certain railroad crossings; posting warning.
85. Section 321.343 – Certain vehicles must stop.

86. Section 321.344 – Heavy equipment at crossing.
87. Section 321.344B – Immediate safety threat; penalty.
88. Section 321.354 – Stopping on traveled way.
89. Section 321.358 – Stopping, standing, or parking where prohibited.
90. Section 321.359 – Moving other vehicle.
91. Section 321.360 – Parking prohibited in front of certain buildings (i.e. Theaters, hotels and auditoriums).
92. Section 321.362 – Unattended motor vehicle. (Parking without stopping engine and setting brake).
93. Section 321.363 – Obstruction to driver's view.
94. Section 321.364 – Preventing contamination of food by hazardous material.
95. Section 321.365 – Coasting prohibited.
96. Section 321.366 – Acts prohibited on fully controlled-access facilities.
97. Section 321.367 – Following fire apparatus.
98. Section 321.368 – Crossing fire hose.
99. Section 321.369 – Putting debris on highway.
100. Section 321.370 – Removing injurious material.
101. Section 321.371 – Clearing up wrecks.
102. Section 321.372 – School buses.
103. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
104. Section 321.381A – Operation of low-speed vehicles.
105. Section 321.382 – Upgrade pulls; minimum speed.
106. Section 321.383 – Exceptions; slow vehicles identified.
107. Section 321.384 – When lighted lamps required. (Failure to use headlamp when required).
108. Section 321.385 – Head lamps on motor vehicles.
109. Section 321.386 – Head lamps on motorcycles and motorized bicycles.

- 110. Section 321.387 – Rear lamps.
- 111. Section 321.388 – Illuminating plates. Improper registration plate lamp.
- 112. Section 321.389 – Reflector requirement. (Improper rear reflector)
- 113. Section 321.390 – Reflector requirements.
- 114. Section 321.392 – Clearance and identification lights.
- 115. Section 321.393 – Color and mounting.
- 116. Section 321.394 – Lamp or flag on projecting load.
- 117. Section 321.395 – Lamps on parked vehicles.
- 118. Section 321.398 – Lamps on other vehicles and equipment.
- 119. Section 321.402 – Spot lamps.
- 120. Section 321.403 – Auxiliary driving lamps.
- 121. Section 321.404 – Signal lamps and signal devices.
- 122. Section 321.404A – Light-restricting devices prohibited.
- 123. Section 321.405 – Self-illumination.
- 124. Section 321.406 – Cowl lamps.
- 125. Section 321.408 – Back-up lamps.
- 126. Section 321.409 – Mandatory lighting equipment.
- 127. Section 321.415 – Required usage of lighting devices.
- 128. Section 321.417 – Single-beam road-lighting equipment.
- 129. Section 321.418 – Alternate road-lighting equipment.
- 130. Section 321.419 – Number of driving lamps required or permitted.
- 131. Section 321.420 – Number of lamps lighted.
- 132. Section 321.421 – Special restrictions on lamps.
- 133. Section 321.422 – Red light in front.
- 134. Section 321.423 – Flashing lights.

- 135. Section 321.430 – Brake, hitch and control requirements.
- 136. Section 321.431 – Performance ability.
- 137. Section 321.432 – Horns and warning devices.
- 138. Section 321.433 – Sirens, whistles and bells prohibited.
- 139. Section 321.434 – Bicycle sirens or whistles.
- 140. Section 321.436 – Mufflers, prevention of noise.
- 141. Section 321.437 – Mirrors.
- 142. Section 321.438 – Windshields and windows.
- 143. Section 321.439 – Windshield wipers.
- 144. Section 321.440 – Restrictions as to tire equipment.
- 145. Section 321.441 – Metal tires prohibited.
- 146. Section 321.442 – Projections on wheels.
- 147. Section 321.444 – Safety glass.
- 148. Section 321.445 – Safety belts and safety harnesses; use required.
- 149. Section 321.446 – Child restraint devices.
- 150. Section 321.449 – Motor carrier safety regulations.
- 151. Section 321.450 – Hazardous materials transportation.
- 152. Section 321.454 – Width of vehicles.
- 153. Section 321.455 – Projecting loads on passenger vehicles.
- 154. Section 321.456 – Height of vehicles; permits.
- 155. Section 321.457 – Maximum length.
- 156. Section 321.458 – Loading beyond front.
- 157. Section 321.459 – Excessive weight – dual axels (each over 2000 lb. over).
- 158. Section 321.460 – Spilling loads on highways.
- 159. Section 321.461 – Trailers and towed vehicles.
- 160. Section 321.462 – Drawbars and safety chains.

- 161. Section 321.463 – Maximum gross weight.
- 162. Section 321.465 – Weighing vehicles and removal of excess.
- 150. Section 321.466 – Increased loading capacity; re-registration.
- 151. Section 321.467 – Retractable Axels.
- 152. Section 321.471 – Local Authorities May Restrict.
- 153. Section 321.473 – Limiting Trucks – Rubbish Vehicles.

62.02 PLAY STREETS DESIGNATED.

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

(Code of Iowa, Sec. 321.255)

62.03 VEHICLES ON SIDEWALKS.

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

62.04 CLINGING TO VEHICLE.

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

62.05 QUIET ZONES.

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

62.06 TAMPERING WITH VEHICLE.

It is unlawful for any person, either individually or in association with one or more other persons, willfully to injure or tamper with any vehicle or break or remove any part or parts of or from a vehicle without the consent of the owner.

62.07 OBSTRUCTING VIEW AT INTERSECTIONS.

It is unlawful to allow any tree, hedge, billboard or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any

such obstruction is deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Chapter 50 of this Code of Ordinances.

62.08 RECKLESS DRIVING.

No person shall drive any vehicle in such manner as to indicate a willful or a wanton disregard for the safety of persons or property.

(Code of Iowa, Sec. 321.277)

62.09 OPEN CONTAINERS IN MOTOR VEHICLES.

1. Drivers. A driver of a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar, or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284)

2. Passengers. A passenger in a motor vehicle upon a public street or highway shall not possess in the passenger area of the motor vehicle an open or unsealed bottle, can, jar or other receptacle containing an alcoholic beverage.

(Code of Iowa, Sec. 321.284A)

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

This Section does not apply to a passenger being transported in a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation, or a passenger being transported in the living quarters of a motor home, motor sports recreation vehicle, manufactured or mobile home, travel trailer, or fifth-wheel travel trailer.

62.10 CARELESS DRIVING.

No person shall intentionally operate a motor vehicle on a street or highway in any one of the following ways:

(Code of Iowa, Sec. 321.277A)

1. Creating or causing unnecessary tire squealing, skidding or sliding upon acceleration or stopping.
2. Simulating a temporary race.
3. Causing any wheel or wheels to unnecessarily lose contact with the ground.

4. Causing the vehicle to unnecessarily turn abruptly or sway.

62.11 MILLING.

It is unlawful to drive or operate a vehicle, either singly or with others, in any processional milling or repeated movement over any street to the interference with normal traffic use, or to the annoyance or offense of any person.

62.12 ENGINE BRAKES AND COMPRESSION BRAKES.

It is unlawful for the driver of any vehicle to use or operate, or cause to be used or operated within the City any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud unusual or explosive noise from such vehicle. Violations of this section will be considered a non-moving violation.

(Sect. 62.12 was created by Ordinance 2012-4, Approved September 4, 2012)

CHAPTER 63 – SPEED REGULATIONS

63.01 General

63.02 State Code Speed Limits

63.03 Parks, Cemeteries and Parking Lots

63.05 Minimum Speed

63.06 Emergency Vehicles

66.07 Special 20 Mph Speed Zones

66.08 Special 25 Mph Speed Zones

63.01 GENERAL.

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

(Code of Iowa, Sec. 321.285)

63.02 STATE CODE SPEED LIMITS.

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

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

63.03 PARKS, CEMETERIES AND PARKING LOTS.

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

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

63.04 SPECIAL SPEED RESTRICTIONS.

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

(Code of Iowa, Sec. 321.290)

- NONE –

63.05 MINIMUM SPEED.

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

(Code of Iowa, Sec. 321.294)

63.06 EMERGENCY VEHICLES.

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

(Code of Iowa, Sec. 321.231)

66.07 SPECIAL 20 MPH SPEED ZONES.

A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets or parts thereof.

1. Ash Street, from Highway No. 10 to Third Street.
2. Main Street, from Fourth Street to First Street (east side of boulevard).
3. Main Street, from Second Street to Fourth Street (west side of boulevard)

(Ordinance 2015-004, established Section 66.07, approved by Council on December 7, 2015)

66.08 SPECIAL 25 MPH SPEED ZONES.

A speed in excess of twenty-five (25) miles per hour is unlawful on any of the following designated streets or parts thereof.

1. Fourth Street, from Pine Street to County Road M-12.
2. Waterman Street, from Fourth Street to Iowa Highway No. 10.

CHAPTER 64 TURNING REGULATIONS

64.01 Turning at Intersections

64.02 U-turns

64.01 TURNING AT INTERSECTIONS.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

(Code of Iowa, Sec. 321.311)

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

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

64.02 U-TURNS.

It is unlawful for a driver to make a U-turn except at an intersection, however, U-turns are prohibited within the business district and at the following designated intersections.

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

- NONE -

CHAPTER 65 STOP OR YIELD REQUIRED

65.01 Through Streets - Stop
65.02 Stop or Yield Required
65.03 Special Yield Required
65.04 School Stops

65.05 Stop Before Crossing Sidewalk.
65.06 Stop When Traffic is Obstructed
65.07 Yield To Pedestrians in Crosswalks
65.08 Vehicles Entering Yield Intersection

65.01 THROUGH STREETS - STOP.

Stop signs shall be placed at and every driver of a vehicle shall stop before entering an intersection with the following designated through streets:

1. Iowa Highway No. 10 within the City;
2. Hi View Drive within the City.

65.02 SPECIAL STOPS REQUIRED.

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

1. Kerry Street. Vehicles traveling south on Kerry Street shall stop at East Birch Street.
2. Beach Street. Vehicles traveling south on Beach Street shall stop at East Birch Street;
3. Pine Street. Vehicles traveling north on Pine Street shall stop at First Street;
4. Main Street. Vehicles traveling north on Main Street shall stop at First Street;
5. Oak Street. Vehicles traveling on Oak Street shall stop at First Street;
6. Second Street. Vehicles traveling on Second Street shall stop at Pine Street;
7. First Street. Vehicles traveling west on First Street shall stop at Waterman Street;
8. Ash Street. Vehicles traveling on Ash Street shall stop at Second Street;
9. Main Street. Vehicles traveling north on Main Street shall stop at Second Street;
10. Fourth Street. Vehicles traveling west on Fourth Street shall stop at Main Street;
11. Washington Street. Vehicles traveling east on Washington Street shall stop at Ash Street;
12. Fourth Street. Vehicles traveling on Fourth Street shall stop at Mason Street.
13. Main Street. Vehicles traveling south on Main Street shall stop at Second Street.
14. Fourth Street. Vehicles traveling east on Fourth Street shall stop at Main Street.
15. Fourth Street. Vehicles traveling west on Fourth Street shall stop at Pine Street.
16. Mason Street. Vehicles traveling north on Mason Street shall stop at Fourth Street.
17. 2nd Street. Vehicles traveling east on 2nd Street shall stop at Pine Street.
18. Mason Street. Vehicles traveling south on Mason Street shall stop at Fourth Street.

19. Fourth Street. Vehicles traveling east on Fourth Street shall stop at Pine Street.

(Ordinance 2001-1 Established 65.02, subsections 13-19)

65.03 SPECIAL YIELD REQUIRED.

Every driver of a vehicle shall yield in accordance with the following:

(Code of Iowa, Sec. 321.345)

1. Ash Street. Vehicles traveling north on Ash Street shall yield at First Street;
2. Second Street. Vehicles traveling west on Second Street shall yield at Waterman Street;
3. High Street. Vehicles traveling north on High Street shall yield at Second Street;
4. Mason Street. Vehicles traveling north on Mason Street shall yield at Second Street;
5. Oak Street. Vehicles traveling on Oak Street shall yield at Second Street;
6. Third Street. Vehicles traveling on Third Street shall yield at Ash Street;
7. Third Street. Vehicles traveling west on Third Street shall yield at Main Street;
8. Third Street. Vehicles traveling on Third Street shall yield at Pine Street;
9. Fourth Street. Vehicles traveling west on Fourth Street shall yield at Waterman Street;
10. Fourth Street. Vehicles traveling on Fourth Street shall yield at Ash Street;
11. Washington Street. Vehicles traveling west on Washington Street shall yield at Mason Street;
12. Washington Street. Vehicles traveling west on Washington Street shall yield at Ash Street;
13. Washington Street. Vehicles traveling on Washington Street shall yield at Main Street;
14. Washington Street. Vehicles traveling east on Washington Street shall yield at South Pine Street.

65.04 SCHOOL STOPS.

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

1. Waterman Street. Vehicles traveling south on Waterman shall stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.
2. Waterman Street. Vehicles traveling north on Waterman shall stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.
3. Second Street. Vehicles traveling west on Second Street at the intersection of Waterman Street shall stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.
4. Fourth Street. Vehicles traveling east on Fourth Street at the intersection of Mason Street shall stop at a point ten

- (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.
5. Fourth Street. Vehicles traveling west on Fourth Street at the intersection of Mason Street shall stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.
 6. Mason Street. Vehicles traveling south on Mason Street at the intersection of Fourth Street shall stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.
 7. Mason Street. Vehicles traveling north on Mason Street at the intersection of Fourth Street shall stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.
 8. Rose Street. Vehicles traveling south on Rose Street at the intersection of Birch Street shall stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.
 9. Birch Street. Vehicles traveling east on Birch Street at the intersection of Rose Street shall stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.
 10. Birch Street. Vehicles traveling west on Birch Street at the intersection of Rose Street shall stop at a point ten (10) feet from the approach side of the crosswalk marked by an authorized school stop sign and thereafter proceed in a careful and prudent manner until the vehicle shall have passed through such school crossing zone.

(Ordinance 2015-003, established 65.03 School Stops, approved September 8, 2015)

65.05 STOP BEFORE CROSSING SIDEWALK.

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

(Code of Iowa, Sec. 321.353)

65.06 STOP WHEN TRAFFIC IS OBSTRUCTED.

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

65.07 YIELD TO PEDESTRIANS IN CROSSWALKS.

Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

(Code of Iowa, Sec. 321.327)

65.08 VEHICLES ENTERING YIELD INTERSECTION.

The driver of a vehicle approaching a yield sign shall slow to a speed reasonable for the existing conditions, and if required for safety, shall stop at the first opportunity at either the clearly marked stop line or before entering the crosswalk or before entering the intersection or at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping, the driver shall yield the right of way to any vehicle on the intersecting roadway which has entered the intersection or which is approaching so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection.

(Code of Iowa, Sec. 321.322(2))

CHAPTER 66 LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo

66.02 Permits for Excess Size and Weight

66.03 Load Limits Upon Certain Streets

66.04 Load Limits on Bridges

66.01 TEMPORARY EMBARGO.

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

(Code of Iowa, Sec. 321.471 & 472)

66.02 PERMITS FOR EXCESS SIZE AND WEIGHT.

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

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

66.03 LOAD LIMITS UPON CERTAIN STREETS.

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

1. Birch Street. Eight (8) ton limit from County Road M-12 to Alpine Street.

(Code of Iowa, Sec. 321.473 & 475)

(Ordinance 2015-005, Amended Section 66.03, approved January 4, 2016)

66.04 LOAD LIMITS ON BRIDGES.

Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Council may cause to be posted and maintained signs on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.473)

CHAPTER 67 PEDESTRIANS

67.01 Walking in Street

67.02 Hitchhiking

67.03 Pedestrian Crossing

67.04 Prohibition of Roller Skates and Skateboards on Harpen Street

67.01 WALKING IN STREET.

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

(Code of Iowa, Sec. 321.326)

67.02 HITCHHIKING.

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

(Code of Iowa, Sec. 321.331)

67.03 PEDESTRIAN CROSSING.

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

(Code of Iowa, Sec. 321.328)

CHAPTER 68 ONE-WAY TRAFFIC

68.01 ONE-WAY TRAFFIC REQUIRED.

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

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

1. Elm Street – North to South will be designated as a one-way street from 4th Street to Highway 10 (Southern Street), Sutherland, Iowa.

(Ordinance 2007-001, amended section 68.01)

CHAPTER 69 PARKING REGULATIONS

69.01 Parking Limited or Controlled

69.02 Park Adjacent to Curb

69.03 Park Adjacent to Curb - One-Way Street

69.04 Diagonal Parking

69.05 Angle Parking - Manner

69.06 Parking for Certain Purposes Illegal

69.07 Parking Prohibited

69.08 Persons With Disabilities Parking

69.09 Truck Parking Limited

69.10 Snow Removal

69.11 Snow Routes

69.01 PARKING LIMITED OR CONTROLLED.

Parking of vehicles shall be controlled or limited where so indicated by designated traffic control devices. No person shall stop, park or stand a vehicle in violation of any such posted parking regulations unless in compliance with the directions of a peace officer.

69.02 PARK ADJACENT TO CURB.

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

(Code of Iowa, Sec. 321.361)

69.03 PARK ADJACENT TO CURB - ONE-WAY STREET.

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

1. Second Street, from Main Street to Oak Street;
2. Main Street, from Second Street to First Street.

69.05 ANGLE PARKING - MANNER.

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

(Code of Iowa, Sec. 321.361)

69.06 PARKING FOR CERTAIN PURPOSES ILLEGAL.

No person shall park a vehicle upon public property for more than forty-eight (48) hours or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale.
2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency.
3. Advertising. Displaying advertising.
4. Merchandise Sales. Selling merchandise from such vehicle except in a duly established market place or when so authorized or licensed under the Code of Ordinances.
5. Nonself-Propelled Vehicles or Equipment: No person shall park or store a trailer, camper, or other nonself-propelled vehicle or equipment on any street or municipal parking lot in the city.

The prohibition of this section shall not apply if the trailer, camper or other equipment is properly connected to a self-propelled vehicle and is promptly movable.

69.07 PARKING PROHIBITED.

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

1. Crosswalk. On a crosswalk.

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

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

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

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

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

4. Sidewalks. On or across a sidewalk.

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

5. Driveway. In front of a public or private driveway.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. Theaters, Hotels, and Auditoriums. A space of not to exceed fifty (50) feet is hereby reserved at the side of the street in front of any theater, auditorium, hotel having more than twenty-five sleeping rooms, or other buildings where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked, or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

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

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

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

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

17. In More Than One Space. In any designated parking space so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such space.
18. Street Storage. Streets or public property shall not be used for storage of vehicles, boats, trailers, motor homes, or any other items.
19. Time Limit. No person shall park a boat, travel trailer, fifth wheel travel trailer attached to a vehicle, or motor home, as defined in Iowa Code Section 21.19(39), on any city street or public property for more than forty-eight (48) hours, unless in compliance with the directions of a peace officer.
20. Unattached Vehicles. No person shall park an unattached trailer, boat, or fifth wheel on any city street or public property.
21. Parking between Street and Lot Lines. Parking is prohibited on unpaved areas between the edge of the street and the lot line. Parking is allowed on gravel pads existing at the time of the passage of this Ordinance. The maintenance of any existing gravel pad shall be maintained solely at the owner's expense. Sidewalks are not considered paved areas where parking or driving is permitted.

69.08 PERSONS WITH DISABILITIES PARKING.

The following regulations shall apply to the establishment and use of persons with disabilities parking spaces:

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the Code of Iowa and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.
2. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:

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

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

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

69.09 TRUCK PARKING LIMITED.

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

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

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

69.10 SNOW REMOVAL.

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

(Code of Iowa, 321.236[1])

69.11 SNOW ROUTES. The Council may designate certain streets in the City as snow routes. When conditions of snow or ice exist on the traffic surface of a designated snow route, it is unlawful for the driver of a vehicle to impede or block traffic.

(Code of Iowa, Sec. 321.236[12])

CHAPTER 70 TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation

70.02 Scheduled Violations

70.03 Parking Violations: Vehicle Unattended

70.04 Presumption in Reference To Illegal Parking

70.05 Impounding Vehicles

70.01 ARREST OR CITATION.

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

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

(Code of Iowa, Sec. 805.6 & 321.485)

70.02 SCHEDULED VIOLATIONS.

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances may be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of five dollars (\$5.00) for all violations except snow route parking violations and improper use of a persons with disabilities parking permit. If such fine is not paid within thirty (30) days, it shall be increased to ten dollars (\$10.00) and if such fine is not paid within sixty (60) days, it shall be increased to fifty dollars (\$50.00). The simple notice of a fine for snow route parking violations is twenty-five dollars (\$25.00), and the simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars (\$100.00). Failure to pay the simple notice of a fine shall be grounds for the filing in District Court.

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

70.03 PARKING VIOLATIONS: VEHICLE UNATTENDED.

When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the citation as herein provided shall be attached to the vehicle in a conspicuous place.

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70.04 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.

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

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

70.05 IMPOUNDING VEHICLES.

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

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

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

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

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

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

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

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

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

CHAPTER 75 ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose

75.02 Definitions

75.03 General Regulations

75.04 Permits and Operation

75.05 Financial Responsibility

75.06 Accident Reports

75.01. PURPOSE. The purpose of this Chapter is to regulate the operation of all-terrain vehicles within the City.

75.02. DEFINITIONS.

For use in this Chapter, the following terms are defined:

1. "All-terrain vehicle" or "ATV" means a motorized flotation-tire vehicle with not less than three (3) low pressure tires, but not more than six (6) low pressure tires, that is limited in engine displacement to less than fifteen hundred (1500) cubic centimeters and in total dry weight to less than fifteen hundred (1500) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.
2. "Off-road utility vehicle" means a motorized flotation-tire vehicle with not less than four (4) and not more than six (6) low pressure tires that is limited in engine displacement to less than fifteen (1500) cubic centimeters and in total dry weight to not more than eighteen hundred (1800) pounds and that has a seat that is of bench design not intended to be straddled by the operator and a steering wheel for control. An off-road utility vehicle shall be considered to be an "ATV" for the purposes of this Chapter and is subject to the provisions of this Chapter governing the operation of all-terrain vehicles.

75.03. GENERAL REGULATIONS.

No person shall operate an ATV within the city limits of Sutherland, Iowa, in violation of the provisions of Chapter 3211 of the Code of Iowa or rules established by the Natural Resource Commission of the department of Natural Resources governing their registration, numbering, equipment and manner of operation.

75.04. PERMITS AND OPERATION.

The operators of all-terrain vehicles shall comply with the following restrictions as to where and when ATVs may be operated within the City.

1. PERMITS. Permits shall be issued as follows:

Owners of ATVs shall apply to the Sutherland City Clerk's office for a permit for each ATV to be operated on the Sutherland City Streets. Each ATV is required to have a permit. The fee for each permit shall be \$25.00 and shall be issued by the City Clerk. Said permit shall be valid for one year from January 1st through December 31st.

A. Operators of ATVs shall apply to the Sutherland City Clerk's Office for a permit to allow such person to operate ATVs on the Sutherland city streets. Each individual operator of an ATV is required to have a permit. The fee for each permit shall be \$25.00 and shall be issued by the City Clerk. Said permit shall be issued only to individuals 18 years and older and be valid for one year from January 1st through December 31st. A copy of the permit shall be carried by the operator named in the permit while operating the ATV. A permit decal shall be displayed next to the registration decal in the manner described by the rules of the Natural Resource Commission. A permit may be issued for the following purposes.

- i. Going to and from place of employment
- ii. Going to and from personal or business property
- iii. Snow plowing/blading
- iv. Gardening/lawn work
- v. Individuals having handicapped parking privileges authorized by the Iowa Department of Transportation
- vi. Special events authorized by the City Council.

2. STREETS. Operators of ATVs holding permits may operate ATVs upon the streets under the jurisdiction and within the corporate limits of Sutherland. ATVs shall not be operated upon any street which is a primary road extension or state highway through the City, to wit: Southern Street and Hiview Drive. However, ATVs may cross such primary road extensions or highways at intersections.
3. PRIVATE PROPERTY. ATVs may only be operated on private property with the express consent of the owner.
4. SIDEWALK OR PARKING. No ATVs shall be operated upon sidewalks unless engaged in snow removal or maintenance activities nor may they be operated upon that part of the street from the paved surface to the sidewalk or property line commonly referred to as "parking" or any off street right-of-way, except for the purposes of snow removal, maintenance, or landscaping activities.
5. PARKS OR OTHER CITY LAND. ATVs shall not be operated upon City parks or other City lands except in the case of special events as authorized by the City Council.
6. LICENSE. No person shall operate an ATV on the public streets of the City without a valid motor vehicle operator's license.
7. EQUIPMENT. All ATVS shall be equipped according to the provisions of Iowa Code Section 3211.11(muffler), Iowa Code Section 3211.13 (headlamp, tail lamp, brakes) and a safety flag, the top of which shall be a minimum of five (5) feet from ground level.
8. TRAFFIC CODE OBSERVED. Any operator of any ATV must observe all state and local traffic control regulations and devices and shall not operate an ATV at a speed in excess of that posted nor

at any time operate an ATV at a speed greater than is reasonable and proper under the existing conditions.

9. LIGHTS. No person shall operate an ATV without a lighted headlight and taillight when required for safety or by any state law or ordinance for motor vehicles.
10. UNATTENDED ATVS AND PARKING. No owner or operator of an ATV shall leave it unattended on public property while the motor is running or with the keys in the ignition switch. Owners and operators of ATVs must obey all parking regulations in the City.
11. REGISTRATION. The owner or operator of an ATV must maintain current vehicle registrations required by Iowa law.
12. HOURS OF OPERATION. No ATV shall be operated within the City between the hours of 10:00 p.m. and 6:30 a.m. except to remove snow.
13. OPERATORS. The owner of an ATV shall not permit the same to be operated within the city limits of Sutherland by an individual not in possession of a permit.
14. PENALTIES. Violation of this Chapter shall be a simple misdemeanor or a municipal infraction pursuant to the Sutherland City Code and shall further result in the following: First violation - permit suspension for 2 months. Second violation - permit suspension for 2 years. Third violation - permanent revocation with no possibility of reinstatement.

75.05. FINANCIAL RESPONSIBILITY/NEGLIGENCE.

The owner or operator of an ATV must maintain and provide proof of financial responsibility in accordance with Iowa Code Section 321.20B. The owner and operator of an ATV is liable for any injury or damage occasioned by the negligent operation of the ATV.

75.06. ACCIDENT REPORTS.

Whenever an ATV is involved in an accident resulting in injury or death, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report with forty-eight (48) hours.

(Ord. 2009-01, approved March 2, 2009 amended Chapter 75 All-Terrain Vehicles)

CHAPTER 76 BICYCLE REGULATIONS

76.01 Scope of Regulations

76.02 Traffic Code Applies

76.03 Double Riding Restricted

76.04 Two Abreast Limit

76.05 Bicycle Paths

76.06 Speed

76.07 Emerging From Alley or Driveway

76.08 Carrying Articles

76.09 Riding on Sidewalks

76.10 Towing

76.11 Improper Riding

76.12 Parking

76.13 Equipment Requirements

76.14 Special Penalty

76.01 SCOPE OF REGULATIONS.

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

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

76.02 TRAFFIC CODE APPLIES.

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

(Code of Iowa, Sec. 321.234)

76.03 DOUBLE RIDING RESTRICTED.

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

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

76.04 TWO ABREAST LIMIT.

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

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

76.05 BICYCLE PATHS.

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

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

76.06 SPEED.

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

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

76.07 EMERGING FROM ALLEY OR DRIVEWAY.

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

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

76.08 CARRYING ARTICLES.

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

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

76.09 RIDING ON SIDEWALKS.

The following shall apply to riding bicycles on sidewalks:

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

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

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

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

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

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

76.10 TOWING.

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

76.11 IMPROPER RIDING.

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

76.12 PARKING.

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

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

76.13 EQUIPMENT REQUIREMENTS.

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

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

(Code of Iowa, Sec. 321.397)

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

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

76.14 SPECIAL PENALTY.

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

CHAPTER 77 SNOWMOBILES

77.01 Purpose.

77.02 Definitions.

77.03 General Regulations.

77.04 Operation of Snowmobiles.

77.05 Hours of Operation.

77.06 Negligence.

77.07 Accident Reports.

77.08 Towing.

77.09 Dead Man Throttle.

77.01 PURPOSE.

The purpose of this chapter is to regulate the operation of snowmobiles within the City.

77.02 DEFINITIONS.

For use in this chapter the following terms are defined:

1. "Snowmobile" means a motorized vehicle weighing less than one thousand pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle, as defined in section 321I.1, which has been altered or equipped with runners, skis, belt-type tracks, or treads.

(Code of Iowa, 321G.1(27))

2. "Street" or Highway" means the entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular travel, except in public areas in which the boundary shall be thirty-three feet each side of the center line of the roadway. Includes roadway, alley, or trail used for vehicular traffic including a state or county highway.

77.03 GENERAL REGULATIONS.

No person shall operate a snowmobile within the City in violation of the provisions of Chapter 321G of the Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, numbering, equipment and manner of operation.

(Code of Iowa, Ch. 321G)

77.04 OPERATION OF SNOWMOBILES.

The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season, and which have snow or ice cover of at least four (4) inches, and on such other streets as may be designated by resolution of the Council.

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

2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

- A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles

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impractical.

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

- B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:
- (1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
 - (2) The snowmobile is brought to a complete stop before crossing the street;
 - (3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and
 - (4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

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

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

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

4. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least four (4) inches.
5. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking" except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.
6. Private Property. No snowmobile shall be operated upon private property without the express consent of the owner thereof.

77.05 HOURS OF OPERATION.

No snowmobile shall be operated in the City between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m. except for emergency situations or for loading and unloading from a transport trailer.

77.06 NEGLIGENCE.

The owner and operator of a snowmobile are liable for any injury or damage occasioned by the negligent operation of the snowmobile. The owner of a snowmobile shall be liable for any such injury or damage only if the owner was the operator of the snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the snowmobile at the time the injury or damage occurred.

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

77.07 ACCIDENT REPORTS.

Whenever a snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand five hundred dollars (\$1,500.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

(Code of Iowa, Sec. 321G.10)

77.08 TOWING.

No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.

77.09 DEAD MAN THROTTLE.

No snowmobile shall be operated within the City unless equipped with a "dead man throttle" which, when pressure is removed from the accelerator or throttle, causes the engine to be disengaged from the drive mechanism.

CHAPTER 78 – GOLF CARTS

78.01. Purpose

78.02. Definition

78.03. Permits & Operation

78.04. Accident Reports

78.05. Insurance

78.01. PURPOSE.

The purpose of this Chapter is to regulate the operation of golf carts within the City.

78.02. DEFINITION.

For use in this Chapter, "golf cart" shall mean and include any motor powered vehicle which is particularly designed for use in golf recreation whether or not so used and which is either not registered or registerable by the State of Iowa as a motor vehicle.

78.03. PERMITS AND OPERATION.

The operators of golf carts shall comply with the following restrictions as to where and when golf carts may be operated within the City.

1. PERMITS. Permits shall be issued as follows:

- A. Owners of golf carts shall apply to the Sutherland City Clerk's office for a permit for each golf cart to be operated on the Sutherland City Streets. Each golf cart is required to have a permit. The fee for each permit shall be \$25.00 and shall be issued by the City Clerk. Said permit shall be valid for one year from January 1st through December 31st.
- B. Operators of golf carts shall apply to the Sutherland City Clerk's Office for a permit to allow such person to operate golf carts on the Sutherland city streets. Each individual operator of a golf cart is required to have a permit. The fee for each permit shall be \$25.00 and shall be issued by the City Clerk. Said permit shall be issued only to individuals 18 years and older and be valid for one year from January 1st through December 31st. A copy of the permit shall be carried by the operator named in the permit while operating the golf cart. A permit decal shall be displayed upon the golf cart. A permit may be issued for the following purposes.
 - i. Going to and from place of employment
 - ii. Going to and from personal or business property
 - iii. Snow plowing/blading
 - iv. Gardening/lawn work
 - v. Individuals having handicapped parking privileges authorized by the Iowa Department of Transportation
 - vi. Special events authorized by the City Council.

2. **STREETS.** Operators of golf carts holding permits may operate golf carts upon the streets under the jurisdiction and within the corporate limits of Sutherland. Golf carts shall not be operated upon any street which is a primary road extension or state highway through the City, to wit: Southern Street and Hiview Drive. However, golf carts may cross such primary road extensions or highways at intersections.
3. **PRIVATE PROPERTY.** Golf carts may only be operated on private property with the expressed consent of the owner.
4. **SIDEWALK OR PARKING.** No golf carts shall be operated upon sidewalks unless engaged in snow removal or maintenance activities nor may they be operated upon that part of the street from the paved surface to the sidewalk or property line commonly referred to as "parking" or any off street right-of-way, except for the purposes of snow removal, maintenance, or landscaping activities.
5. **PARKS OR OTHER CITY LAND.** Golf carts shall not be operated upon City parks or other City lands except in the case of special events as authorized by the City Council.
6. **LICENSE.** No person shall operate a golf cart on the public streets of the City without a valid motor vehicle operator's license.
7. **EQUIPMENT.** All golf carts shall be equipped with adequate brakes and a safety flag, the top of which shall be a minimum of five (5) feet from ground level.
8. **TRAFFIC CODE OBSERVED.** Any operator of any golf cart must observe all state and local traffic control regulations and devices and shall not operate a golf cart at a speed in excess of that posted nor at any time operate a golf cart at a speed greater than is reasonable and proper under the existing conditions.
9. **UNATTENDED GOLF CARTS AND PARKING.** No owner or operator of a golf cart shall leave it unattended on public property while the motor is running or with the keys in the ignition switch. Owners and operators of golf carts must obey all parking regulations in the City.
10. **HOURS OF OPERATION.** No golf cart shall be operated within the City between sunset and sunrise.
11. **OPERATORS.** The owner of a golf cart shall not permit the same to be operated within the city limits of Sutherland by an individual not in possession of a permit.
12. **PENALTIES.** Violation of this Chapter shall be a simple misdemeanor or a municipal infraction pursuant to the Sutherland City Code and shall further result in the following: First violation - permit suspension for 2 months. Second violation - permit suspension for 2 years. Third violation - permanent revocation with no possibility of reinstatement.

78.04, ACCIDENT REPORTS.

Whenever a golf cart is involved in an accident resulting in injury or death, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report with forty-eight (48) hours.

78.05. INSURANCE.

The owner(s) of all golf carts operated upon city streets pursuant to this Chapter shall maintain liability insurance coverage insuring said operation.

Ord. 2009-02, approved March 2, 2009

CHAPTER 80 - ABANDONED VEHICLES

80.01 Definitions

80.02 Authority to Take Possession of Abandoned Vehicles

80.03 Notice by Mail

80.04 Notification in Newspaper

80.05 Fees for Impoundment

80.06 Disposal of Abandoned Vehicles

80.07 Disposal of Totally Inoperable Vehicles

80.08 Proceeds From Sales

80.09 Duties of Demolisher

80.01 DEFINITIONS.

For use in this chapter the following terms are defined:

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

1. "Abandoned vehicle" means any of the following:
 - A. A vehicle that has been left unattended on public property for more than twenty-four (24) hours and lacks current registration plates or two (2) or more wheels or other parts which renders the vehicle totally inoperable.
 - B. A vehicle that has remained illegally on public property for more than twenty-four (24) hours.
 - C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than twenty-four (24) hours.
 - D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.
 - E. Any vehicle parked on the highway determined by a police authority to create a hazard to other vehicle traffic.
 - F. A vehicle that has been impounded pursuant to Section 321J.4B of the Code of Iowa by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.
2. "Demolisher" means a person licensed under Chapter 321H of the Code of Iowa whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
3. "Police authority" means the Iowa State Patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES.

A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment and facilities or hire a private entity, equipment and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

80.03 NOTICE BY MAIL.

The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. The notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving the notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

80.04 NOTIFICATION IN NEWSPAPER.

If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

80.05 FEES FOR IMPOUNDMENT.

The owner, lienholder or claimant shall pay one hundred dollars (\$100.00) if claimed within ten (10) days of impounding, plus one dollar (\$1.00) for each additional day within the reclaiming period plus towing charges if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

80.06 DISPOSAL OF ABANDONED VEHICLES.

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

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

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES.

The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate within thirty (30) days of receipt of the certificate of authority and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES.

Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

80.09 DUTIES OF DEMOLISHER.

Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

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WATER

CHAPTER 90 - WATER SERVICE SYSTEM

90.01 Definitions	90.12 Responsibility For Water Service Pipe
90.02 Superintendent's Duties	90.13 Failure to Maintain
90.03 Mandatory Connections	90.14 Curb Valve
90.04 Abandoned Connection	90.15 Interior Valve
90.05 Permit	90.16 Inspection and Approval
90.06 Connection Charge	90.17 Completion by The City
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90.08 Plumber Required	90.19 Operation of Curb Valve and Hydrants
90.09 Excavations	90.20 Replacement of Lead Service Lines.
90.10 Tapping Mains	
90.11 Installation of Water Service Pipe	

90.01 DEFINITIONS.

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

1. "Combined service account" means a customer service account for the provision of two or more utility services.
2. "Customer" means, in addition to any person receiving water service from the City, the owner of the property served, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
3. "Superintendent" means the Superintendent of the City water system or any duly authorized assistant, agent or representative.
4. "Water main" means a water supply pipe provided for public or community use.
5. "Water service pipe" means the pipe from the water main to the building served.
6. "Water system" or "Waterworks" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

90.02 SUPERINTENDENT'S DUTIES.

The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council.

In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

90.03 MANDATORY CONNECTIONS.

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, if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source. Once connected to the public system, there shall be no re-establishment of an alternate system.

90.04 ABANDONED CONNECTIONS.

When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 PERMIT.

Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 CONNECTION CHARGE.

There shall be a connection charge in the amount of fifty dollars (\$50.00) paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served.

90.07 COMPLIANCE WITH PLUMBING CODE.

The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of Division 4, Plumbing Rules and Regulations, of the State Building Code.

90.08 PLUMBER REQUIRED.

All installations of water service pipes and connections to the water system shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of this chapter. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the sum of five thousand dollars (\$5,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections to the water system or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such

expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of five thousand dollars (\$5,000.00) may be filed with the City.

90.09 EXCAVATIONS.

All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable excavation provisions as provided for installation of building sewers and/or the provisions of Chapter 135.

90.10 TAPPING MAINS.

All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premise may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE.

Water service pipes from the main to the meter setting shall be Type K copper, one hundred forty (140) pound test PVC. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE.

All costs and expenses incident to the installation, connection and continued maintenance of the water service pipe from the main to the building served, including the saddle, corporation cock, line to curb valve and box, and line to meter valve and meter, shall be borne by the owner. The owner shall also be responsible for any damage to street surface resulting from leak and shall be billed by the City for the repair of said damage. 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, and in the event of such action

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the City shall hereby be given a temporary maintenance and repair easement in order to maintain or repair any water service facilities.

90.13 FAILURE TO MAINTAIN.

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

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

90.14 CURB VALVE.

There shall be installed within the public right-of-way a main shut-off valve of the inverted key type on the water service pipe at the outer sidewalk line with a suitable lock of a pattern approved by the Superintendent. The shut-off valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

90.15 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.

90.16 INSPECTION AND APPROVAL.

All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.17 COMPLETION BY THE CITY.

Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit, and the plumber's bond or cash deposit shall be security for the assessment. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.18 SHUTTING OFF WATER SUPPLY.

After following the procedures set out in Section 92.05, the Superintendent may shut off the supply of water to any customer because of any substantial violation of this chapter, or valid regulation under Section 90.02 that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

90.19 OPERATION OF CURB VALVE AND HYDRANTS.

It is unlawful for any person except the Superintendent to turn water on at the curb stop, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

90.20 REPLACEMENT OF LEAD SERVICE LINES.

All lead service lines shall be replaced upon discovery during construction, reconstruction, or remodeling with materials as specified by this Chapter.

CHAPTER 91 - WATER METERS

91.01 Purpose.

91.02 Water Use Metered.

91.03 Fire Sprinkler Systems - Exception.

91.04 Location of Meters.

91.05 Meter Setting.

91.06 Meter Costs

91.07 Meter Repairs.

91.08 Right of Entry.

91.09 Meter Installation Fee.

91.10 Meter Testing.

91.01 PURPOSE.

The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED.

All water furnished customers shall be measured through Meters provided by the City and installed by the City.

91.03 FIRE SPRINKLER SYSTEMS - EXCEPTION.

Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS.

All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

91.05 METER SETTING.

The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER COSTS. The full cost of any meter larger than that required for a single-family residence shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install such meter in accordance with requirements established by the City.

91.07 METER REPAIRS.

Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

91.08 RIGHT OF ENTRY.

The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter, or for the purpose of installing or changing a remote outside register. Water service to customer may be discontinued for failure of the customer to permit water department employees reasonable access to water meter equipment.

91.09 METER MAINTENANCE FEE

A fee will be assessed to each residential meter billed on a quarterly basis and will be effective January 1, 2003.

91.10 METER TESTING.

The Superintendent or any designee shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 5% or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy, but not more than 5% of the total water bill and not for a longer period than 3 months. If the meter is found to be accurate or slow or less than 5% fast, the user shall pay a testing charge set by resolution of the Council.

Ord. approved March 3, 2003 amended sections 9.02 Water Use Metered and 91.09 Meter Maintenance Fee)

CHAPTER 92 - WATER RATES

92.01 Service Charges

92.02 Rates for Service

92.03 Rates Outside the City

**92.04 Rural Water Connection and
Installation Charge**

92.05 Billing for Water Service

92.06 Service Discontinued

92.07 Lien for Nonpayment

92.08 Lien Exemption

92.09 Delinquency and Lien Notice

92.10 Utility Deposits

92.11 Temporary Vacancy

92.01 SERVICE CHARGES.

Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE.

Water service shall be furnished at the following rates within the City:

(Code of Iowa, Sec. 384.84[1])

Gallons Used Per Quarter	Rate
City Charges for Water Services	
First 3,500 gallons	\$35.00 (minimum Bill)
Next 100,000 gallons	\$1.20 per 1,000 gallons
Next 100,000 gallons	\$1.10 per 1,000 gallons
Next 100,000 gallons	\$1.00 per 1,000 gallons
Next 100,000 gallons	\$0.90 per 1,000 gallons
All gallons over 403,500	\$0.80 per 1,000 gallons

In addition to City Charges there will be a Rural Water charge that will be \$3.000 per 1,000 gallons.

(Ordinance 2015-001, approved April 6, 2015 established rates for water service.)

92.03 RATES OUTSIDE THE CITY.

Water service shall be provided any customer located outside the corporate limits of the City which the City has agreed to serve at rates one hundred twenty-five percent (125%) of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4[2] & 384.84)

City of Sutherland Code of Ordinances

92.04 RURAL WATER CONNECTION AND INSTALLATION CHARGE

For each residential, commercial and for each dwelling unit of multiple family dwelling that has a water line available a rural water connection and installation charge will be added. The charge is five dollars (\$5.00) per month or fifteen dollars (\$15.00) per unit per quarterly billing. The charge will be added and payable even if the dwelling is empty and no other services are available.

Revenue will be used to make payments on the loan debt for Rural Water.

Ord. 2013-01, Approved September 3, 2013 created a new section 92.04 Rural Water Connection and Installation Charge

92.05 BILLING FOR WATER SERVICE.

Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Meters Read. Water meters shall be read during the last month of each of the quarters consisting of the following months:

First Quarter – January, February and March

Second Quarter – April, May and June

Third Quarter – July, August and September

Fourth Quarter – October, November and December

2. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of the month following each quarter.
3. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the tenth of the month following the end of each quarter.
4. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill.

92.06 SERVICE DISCONTINUED.

Water service to delinquent customers shall be discontinued in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such deadline shall not fall on a Friday or before a holiday. Such notice shall be sent by ordinary mail and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.
3. Hearing. If a hearing is requested at least three (3) days before the deadline, the Superintendent shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the Superintendent's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.
4. Fees. A fee of fifty dollars (\$50.00) shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.
5. A twenty-five dollar (\$25.00) delivery fee shall be assessed to the customer for shut off notifications.
6. Iowa Offset Program. The City may participate in the Iowa Offset Program as provided for within Chapter 8A of the Code of Iowa to collect delinquent payments.

Ord. approved March 3, 203 established subsection 92.05(5) for shut off notification fee.

Section 92.06 Service Discontinued was amended at time of updating City Code in 2016 to add subsection 6. Iowa Offset Program.

92.07 LIEN FOR NONPAYMENT.

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

(Code of Iowa, Sec. 384.84)

92.08 LIEN EXEMPTION.

The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the Clerk that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within ten (10) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

(Code of Iowa, Sec. 384.84)

92.09 DELINQUENCY AND LIEN NOTICE.

When service charged for one or more utilities become delinquent, a lien shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer. If the customer is a tenant and if the owner or landlord of the property has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.10 UTILITY DEPOSITS.

There shall be required from every customer a one hundred and fifty dollar (\$150.00) deposit intended to guarantee the payment of bills for utility service.

(Code of Iowa, Sec. 384.84)

Ord. 2012-001, approved April 12, 2012 amended section 92.09 Utility Deposits

92.11 TEMPORARY VACANCY

A property owner may request 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. There shall be a twenty-five dollar (\$25.00) fee collected 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.

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CHAPTER 95 SANITARY SEWER SYSTEM

95.01 Purpose

95.02 Definitions

95.03 Superintendent

95.04 Prohibited Acts

95.05 Sewer Connection Required

95.06 Service Outside the City

95.07 Right of Entry

95.08 Use of Easements

95.09 Special Penalties

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

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

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.
2. "Building Drain" means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.
(IAC, 567-69.3[1])

3. "Building Sewer" means the extension from the building drain to the public sewer or other place of disposal.

(IAC, 567-69.3[1])

4. "Combined Sewer" means a sewer receiving both surface run-off and sewage.
5. "Customer" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
7. "Industrial Wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.
9. "Natural Outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.
11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
12. "Public Sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
13. "Sanitary Sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.
14. "Sanitary Sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.
16. "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.
17. "Sewage Works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.
18. "Sewer" means a pipe or conduit for carrying sewage.
19. "Sewer Service Charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.
20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
21. "Storm Drain" Or "Storm Sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
22. "Superintendent" means the Superintendent of sewage works and/or of water pollution control of the City or any authorized deputy, agent, or representative.
23. "Suspended Solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.
2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewers chapters.

Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. **Damage Sewer System.** Maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.
(Code of Iowa, Sec. 716.1)
2. **Surface Run-off or Groundwater.** Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
3. **Manholes.** Open or enter any manhole of the sewer system, except by authority of the Superintendent.
4. **Objectionable Wastes.** Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.
5. **Septic Tanks.** Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.
(Code of Iowa, Sec. 364.12[3f])
6. **Untreated Discharge.** Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewers chapters, such compliance to be completed within ninety (90) days after date of official notice from the City to do so provided that said owner's property abuts on a sewer line and that the sewer is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

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

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

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

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

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement,

sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved

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

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

CHAPTER 96 BUILDING SEWERS AND CONNECTIONS

96.01 Permit

96.02 Permit Fee and Connection Charge

96.03 Plumber Required

96.04 Excavations

96.05 Connection Requirements

96.06 Interceptors Required

96.07 Sewer Tap

96.08 Inspection Required

96.09 Property Owner's Responsibility

96.10 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 PERMIT FEE AND CONNECTION CHARGE. The person who makes the application shall pay a fee in the amount of fifty dollars (\$50.00) to the Clerk to cover the cost of issuing the permit and supervising, regulating, and inspecting the work. In addition, before a connection to an existing public sanitary or storm sewer is made, and if the property to be served has not been previously assessed, there shall be paid to the City an amount which shall be determined by the Superintendent. The amount so paid will equitably reimburse the City for its cost of construction, inspection and other reasonable expenses incurred for the construction of the sewer to which connection is sought, and which has been paid previously by the City without assessment. The determination of the cost of such connection made by the Superintendent may be appealed to the Council any time before connection is actually made. The Council may, in its discretion, reduce or waive the payment of sewer construction costs, either on its own motion or after application from the affected property owner.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the minimum sum of five thousand dollars (\$5,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections with the public sewers or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain

in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

96.04 EXCAVATIONS. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification C-12, except that no backfill shall be placed until the work has been inspected. The excavations shall be made in accordance with the provisions of Chapter 135 where applicable.

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

1. Old Building Sewers. Old building sewers may be used in connection with new buildings only when they are found, on examination and test conducted by the owner and observed by the Superintendent, to meet all requirements of this chapter.
2. Separate Building Sewers. A separate and independent building sewer shall be provided for every occupied building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway. In such cases the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
3. Installation. The connection of the building sewer into the public sewer shall conform to the requirements of Division 4, Plumbing Rules and Regulations, of the State Building Code, applicable rules and regulations of the City, or the procedures set forth in A.S.T.M. Specification C-12. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
4. Water Lines. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.
5. Size. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.
6. Alignment and Grade. All building sewers shall be laid to a straight line and at a uniform grade of not less than the following:
 - A. Four (4) inch lines: one-fourth ($\frac{1}{4}$) inch per foot.
 - B. Six (6) inch lines: one-eighth ($\frac{1}{8}$) inch per foot.
 - C. Minimum velocity: 2.50 feet per second with the sewer half full.
 - D. Deviations: any deviation in alignment or grade shall be made only with the written approval of the Superintendent and shall be made only with properly curved pipe and fittings.
7. Depth. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
8. Sewage Lifts. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by approved artificial means and discharged to the building sewer.

9 Pipe Specifications. Building sewer pipe shall be free from flaws, splits, or breaks. Materials shall be as specified in Division 4 of the State Building Code except that the building sewer pipe, from the property line to the public sewer, shall comply with the current edition of one of the following:

- A. Clay sewer pipe - A.S.T.M. C-700 (extra strength).
- B. Extra heavy cast iron soil pipe - A.S.T.M. A-74.
- C. Cast and ductile iron water pipe - A.S.T.M. A-377.
- D. P.V.C. - DWV - A.S.T.M. D-2665.

10. Bearing Walls. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.

11. Jointing. Fittings, type of joint, and jointing material shall be commensurate with the type of pipe used, subject to the approval of the Superintendent.

12. Unstable Soil. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six (6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.

13. Preparation of Basement or Crawl Space. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.

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

1. Design and Location. All interceptors shall be of a type and capacity as provided by the Iowa Public Health Bulletin and Division 4 of the State Building Code, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.

2. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.

3. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.

96.07 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a "Y" saddle shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued and attached

with stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.08 INSPECTION REQUIRED. All connections with the sanitary sewer system before being covered shall be inspected and approved, in writing, by the Superintendent. As soon as all pipe work from the public sewer to inside the building has been completed, and before any backfilling is done, the Superintendent shall be notified and the Superintendent shall inspect and test the work as to workmanship and material; no sewer pipe laid underground shall be covered or trenches filled until after the sewer has been so inspected and approved. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work.

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

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

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

CHAPTER 97 - USE OF PUBLIC SEWERS

97.01 Storm Water

97.02 Surface Waters Exception

97.03 Prohibited Discharges

97.04 Restricted Discharges

97.05 Restricted Discharges - Powers

97.06 Special Facilities

97.07 Control Manholes

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97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.
3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two (2) percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the

suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

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

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).
2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.
3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).
4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.
5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.
6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies or jurisdiction for such discharge to the receiving waters.
8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.
10. Unusual Wastes. Materials which exert or cause:
 - A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth,

lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

- B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).
- C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
- D. Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES - POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

- 1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;
- 2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;
- 3. Controls Imposed. Require control over the quantities and rates of discharge; and/or
- 4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

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

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

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

CHAPTER 98 ON-SITE WASTEWATER SYSTEM

98.01 When Prohibited

98.02 When Required

98.03 Compliance with Regulations

98.04 Permit Required

98.05 Discharge Restrictions

98.06 Maintenance of System

98.07 Systems Abandoned

98.08 Disposal of Septage

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

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

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

(IAC, 567-69.1[3])

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

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

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

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

(IAC, 567-69.1[3])

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

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

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

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

CHAPTER 99 - SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Private Water Systems

99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each customer shall pay a sewer rental in the amount of one hundred percent (100%) of the bill for water and water service attributable to the customer for the property served.

Ord. No. 2005-1, approved Nov. 17, 2005 amended Section 99.02 Rates

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

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.05 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.06 if the combined service account becomes delinquent, and the provisions contained in Section 92.09 relating to lien notices shall also apply in the event of a delinquent account. The City may participate in the Iowa Offset Program as provided for within Chapter 8A of the Code of Iowa to collect delinquent payments.

99.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes. The City shall charge a five dollar (\$5.00) administrative fee, which shall be added to the amount of the lien.

(Code of Iowa, Sec. 384.84)

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

99.08 SEWER CHARGE.

1. For each residential, commercial and for each dwelling of a multiple dwelling that has a sewer line available a new sewer lagoon project charge will be added. The charge is \$10.00 per month or \$30.00 per unit per quarterly billing. The charge will be added and payable even if the dwelling is empty and no other services are needed.
2. The new sewer lagoon improvement charge will be in effect as of July 1, 2008. The revenue will be used to pay for the improvements.
3. Upon completion of the project said revenue will be in used to make payments on the loan debt for the sewer lagoon project.

Ord. 2008-1, added section 99.08 Sewer Charge, approved Sept. 2, 2008.

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GARBAGE AND SOLID WASTE

CHAPTER 105 - SOLID WASTE CONTROL

105.01 Purpose	105.11 Solid Waste Bags and Containers
105.02 Definitions	105.12 Prohibited Practices
105.03 Sanitary Disposal Required	105.13 Sanitary Disposal Project Designated
105.04 Health and Fire Hazard	105.14 Wind-Blown Refuse
105.05 Open Burning Restricted	105.15 Deposit Of Refuse or Garbage On
105.06 Separation of Landscape Waste	Private Premises
Required	105.14 Debris on Streets
105.07 Separation of Recyclable Materials	105.16 Deposit of Grass and Rubbish
105.08 Littering Prohibited	Prohibited in Public Streets
105.09 Open Dumping Prohibited	105.17 Exceptions
105.10 Toxic and Hazardous Waste	

105.01 PURPOSE.

The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control is to provide for the sanitary storage, collection and disposal of solid waste and recyclable material and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS.

For use in these chapters the following terms are defined:

1. "Collector" means any person authorized to gather solid waste from public and private places.
2. "Director" means the director of the State Department of Natural Resources or any designee.

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

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

(Code of Iowa, Sec. 455B.361[2])

4. "Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
5. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.

(IAC, 567-100.2)

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

(IAC, 567-20.2) & (Code of Iowa, Sec. 455B)

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

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

8. "Owner" means in addition to the record titleholder any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.
9. "Recyclable material" means cardboard, paper, glass, tin and other items which are discarded but which may be recycled and reused for industrial, commercial, agricultural or other domestic use. The items which may be recycled will change from time to time depending upon technology and the used available for the recyclable material. The Clerk shall post from time to time those items designated as recyclable and shall keep a list at all times of recyclable material.
10. "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.

(IAC, 567-100.2)

11. "Residential premises" means a single-family dwelling and any multiple-family dwelling.
12. "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2) & (Code of Iowa, Sec. 455B)

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

(IAC, 567-100.2)

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

(IAC, 567-100.2)

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

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

16. "Solid Waste Collection" shall mean the gathering of solid wastes from public and private places.

(IAC, 567-100.2)

17. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

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

105.03 SANITARY DISPOSAL REQUIRED.

It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD.

It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED.

No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2 and 567-100.2)) & (Code of Iowa, Sec. 455B)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists, provided that the burning of any structures or demolished structures is conducted in accordance with 40 CFR Section 61.145.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings is not permitted. Trees and tree trimmings and other landscape waste may be disposed a City-operated site. Burning of trees and tree trimmings of at the City-operated site may be burned by the City if conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3a])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape

waste.

(IAC, 567-23.2[3d])

5. Recreational Fires. Open fires for cooking, heating, recreation and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

6. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in firefighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

7. Controlled Burning of a Demolished Building. The controlled burning of a demolished building by the City, subject to approval of the Council, provided that the controlled burning is conducted in accordance with rules and limitations established by the State Department of Natural Resources.

(IAC, 567-23.2[3j])

8. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director of the State Department of Natural Resources. No person shall kindle or maintain any premises fire or authorize any such fire to be kindled or maintained on any private land unless (i) the location is not less than fifty (50) feet from any structure and adequate provision is made to prevent fire from spreading to within 50 feet of any structure, or (ii) the fire is contained in an approved waste burner located safely not less than fifteen (15) feet from any structure. Such fires shall be constantly attended by a competent person until such fire is extinguished. This person shall have a garden hose connected to the water supply or other fire extinguishing equipment readily available for use. The Fire Chief may prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.

105.06 SEPARATION OF LANDSCAPE WASTE REQUIRED.

All landscape waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises in accordance with Section 105.05 or placed in acceptable containers with a special tag obtained from the City and set out for collection. As used in this section, "yard waste" means any debris such as grass clippings, leaved, garden waste, brush and trees. Yard waste does not include tree stumps.

105.07 SEPARATION OF RECYCLABLE MATERIALS.

Recyclable materials shall be stored separately from all other waste material and stored in containers maintained so as to allow the recyclable materials to be collected at the curb. Containers are to be set at least five (5) feet from the solid waste carts.

105.08 LITTERING PROHIBITED.

No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle

actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.09 OPEN DUMPING PROHIBITED.

No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

105.10 TOXIC AND HAZARDOUS WASTE.

No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2) (IAC, 567-102.14[2] and 400-27.14[2])

105.11 SOLID WASTE BAGS AND CONTAINERS.

1. Every person owning, managing, operating, leasing or renting any site in the City of Sutherland where solid waste is generated shall be provided by the solid waste contractor approved by the City and shall maintain in good order and repair a 65-gallon capacity solid waste cart.
2. Provisions Applicable to Carts.
 - A. All solid waste carts are the property of the City's contracted solid waste collector.
 - B. Each solid waste cart is numbered and assigned to a specific address. The solid waste cart is to remain at that address when occupancy changes.
 - C. If solid waste carts are damaged or lost through the neglect of the property owner/user, the solid waste cart shall be repaired or replaced at the expense of the property owner/user.
 - D. The solid waste carts supplied by the City contracted solid waste collector shall be the only approved receptacles for the storage of solid waste for collection.
3. Storage of Carts. Residential solid waste carts shall be stored upon the residential premises. Commercial solid waste carts shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. Solid waste cart storage sites shall be well drained, fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper

storage of all refuse and yard waste and shall prevent materials from being blown or scattered.

4. Placement of Carts for Collections. The solid waste carts provided by the City contracted solid waste collector for collection shall be placed adjacent to the nearest public access with the wheels away from the street towards the residence. The cart shall be placed a minimum of three (3) feet from any obstacle, such as trees, vehicles, mailboxes, poles or other solid waste carts.

105.12 PROHIBITED PRACTICES.

It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

105.13 SANITARY DISPOSAL PROJECT DESIGNATED.

The sanitary landfill facilities designated by the City Council by resolution are the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City of Sutherland, Iowa.

105.14 WIND-BLOWN REFUSE.

It shall be unlawful to deposit or leave any refuse or material in such a place or condition that it can be blown by the wind so as to be scattered or cause clouds of dust or particles; and it shall be unlawful to permit the escape of soot, ashes or other solid products or results of combustion so as to be wind-blown or scattered.

105.15 DEPOSIT OF REFUSE OR GARBAGE ON PRIVATE PREMISES.

It shall be unlawful to place, deposit, leave or dump any trash, ashes, broken articles, garbage, junk, refuse or waste material of any kind on any premises in the city without the consent of the owner or tenant in possession thereof. For the purpose of this section vehicles or parts of vehicles not in condition for normal use shall be considered as junk or trash.

105.14 DEBRIS ON STREETS.

It shall be unlawful to throw or deposit any glass, tacks, nails or other similar articles on any street, alley or sidewalk or other public place in the city.

105.16 DEPOSIT OF GRASS AND RUBBISH PROHIBITED IN PUBLIC STREETS.

It shall be unlawful for any person, firm or corporation to dump or deposit, or cause to be dumped or deposited any grass, leaves, branches or any other things in the roadway or gutter of any public street in the city.

105.17 EXCEPTIONS.

Nothing in this chapter shall prohibit the filling, leveling or grading of land with earth, sand, ashes, cinders, slag, gravel, rock, demolition or construction rubble or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, and further providing that such fill is leveled and seeded with grass or other nonoffensive vegetation, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

CHAPTER 106 COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish

106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fees
106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE.

The City shall provide by contract for the collection of all solid waste, except bulky rubbish as provided in Section 106.05 within the City.

106.02 COLLECTION VEHICLES.

Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9) & (Code of Iowa, Sec. 455B)

106.03 LOADING.

Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION.

All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than twice each week.

106.05 BULKY RUBBISH.

Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefore established by the Council.

106.06 RIGHT OF ENTRY.

Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS.

No person shall engage in the business of collecting, transporting, processing or disposing of solid waste for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEES.

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Schedule of Fees. The fees for solid waste collection and disposal service, used or available, are:
 - A. For each **residential premises** and for each dwelling unit of multiple-family dwelling - \$42.00 per quarter.
 - B. For **commercial – Industrial and industrial premises** - \$125.00 per quarter per dumpster (Any place with a dumpster is commercial).
 - C. Excessive rate charge will be determined by the Council. Several places have excessive amounts of garbage which cause higher tonnage prices. Dollar amount will be judged on the amount of garbage.

Ord. No. 2015-002, amended section 106.05 (1), approved August 3, 2015

2. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.
3. All properties with active water service (turned on at curb stop) will be charged for solid waste collection regardless of the occupancy status of the property.

106.09 LIEN FOR NONPAYMENT.

The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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FRANCHISES AND OTHER SERVICES

CHAPTER 110 - NATURAL GAS FRANCHISE

ORDINANCE NO. 2017-002

AN ORDINANCE GRANTING TO MIDAMERICAN ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND NON-EXCLUSIVE FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE IN THE CITY OF SUTHERLAND, IOWA, A **NATURAL GAS SYSTEM** AND TO FURNISH AND SELL NATURAL GAS TO THE CITY AND ITS INHABITANTS AND AUTHORIZING THE CITY TO COLLECT FRANCHISE FEES FOR A PERIOD OF 25 YEARS.

BE IT ENACTED by the City Council of the City of Sutherland, Iowa:

Section 1. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called "Company,") and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City of Sutherland, Iowa, (hereinafter called the "City,") a gas distribution system, to furnish natural gas along, under and upon the right-of-way, streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance.

Section 2. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2015, or as subsequently amended or changed.

Section 3. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to unreasonably interfere with any above or below-ground utility services or facilities which have been or may hereafter be located by or under authority of the City.

Section 4. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff,") at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under

any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction, maintenance or repair of the street or alley. Relocation expenses for other hard surfaces, including pedestrian and non-motorized vehicle pathways, will be paid by the City. If the City has a reasonable alternative route for the street, right of way or alley or an alternative construction method, which would not cause the relocation of Company installations or would minimize the cost or expense of relocation of Company installations, the City and Company shall work together to consider said alternative route or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects that require relocation of Company facilities. If requested the City shall provide, at no cost to the Company, copies of its relocation plan and profile and cross section drawings. If tree and vegetation removal must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of the tree/vegetation removal does not coincide with the Company facilities relocation schedule and Company must remove trees/vegetation that are included in the City's portion of the project, the City shall either remove the material at its cost or reimburse the Company for the expenses incurred to remove said vegetation or trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

Section 5. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. The Company in making such excavations shall, if required by ordinance, obtain a City permit therefore and provide City representatives with advance notice prior to the actual commencement of the work, and shall comply with all provisions and requirements of the City in its regulation of the use of City right of way in performing such work. In emergencies which require immediate excavation, the Company may proceed with the work without first applying for or obtaining the permit, provided, however, that Company shall apply for and obtain the excavation permit as soon as possible after commencing such emergency work. The Company shall comply with all City ordinances regarding paving cuts, placement of facilities and restoration of pavement and other public infrastructure. The Company shall replace the surface, restoring the condition as existed prior to the Company's excavation but shall not be required to improve or modify the public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition. Company shall complete all repairs

in a timely manner. Company agrees any replacement of road surface shall conform to current City ordinances regarding its depth and composition.

Section 6. The City's vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has facilities in the vicinity, the City shall provide Company with not less than sixty (60) days advance notice of the city's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for the existing Company facilities.

Section 7. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City at any time during the previous ten (10) years.

Section 8. Pursuant to relocation of Company facilities as may be required here under, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly or indirectly facilitate the project of a commercial or private developer or other non-public entity, City shall reimburse or the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation. The Company shall not be required to relocate in order to facilitate such private project at its expense.

Section 9. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

Section 10. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in the public right of way, including documents, maps and other information in paper or electronic or other forms ("Information"). The Company and City recognize the Information may in whole or part be considered a confidential record

under state or federal law or both. Upon receipt of a request from a third party for information concerning information about the Company's facilities within the City, the City will promptly submit same to Company. If the Company believes any of the information requested constitutes a trade secret which may otherwise be protected from public disclosure by state or federal law, or otherwise exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time, then the Company shall provide the City with a written explanation of the basis for such assertion of confidentiality or exemption from disclosure within ten (10) days.

Section 11. The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company's tariff and made effective by the Iowa Utilities Board or its successors and Iowa law.

Section 12. There is hereby imposed upon the customers a franchise fee of three (3) percent upon the gross revenues, minus uncollectible accounts, generated from sales of natural gas and distribution service by the Company within the corporate limits of the City. The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged.

A. The City agrees to modify the level of franchise fees imposed only once in any 24-month period.

B. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee.

C. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than sixty (60) days after receiving annexation ordinances from the City.

D. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

Section 13. Upon implementation of a franchise fee, the City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge Company right of way management fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

Section 14. This franchise shall apply to and bind the City and Company and their successors and assigns.

Section 15. Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have sixty (60) days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

Section 16. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 17. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within ten (10) days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with

the Code of Iowa. The effective date of this ordinance shall be the date of publication. In the event that the Company does not file its written acceptance of this ordinance within thirty (30) days after its approval by the City Council, this ordinance shall be void and of no effect.

Section 18. Upon the effective date of this ordinance, all prior natural gas franchises granted to the Company to furnish natural gas to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

CHAPTER 111 ELECTRIC FRANCHISE

ORDINANCE NO. 2017-001

AN ORDINANCE GRANTING TO MIDAMERICAN ENERGY COMPANY, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND NON-EXCLUSIVE FRANCHISE TO ACQUIRE, CONSTRUCT, ERECT, MAINTAIN AND OPERATE IN THE CITY OF SUTHERLAND, IOWA, AN **ELECTRIC SYSTEM** AND COMMUNICATIONS FACILITIES AND TO FURNISH AND SELL ELECTRIC ENERGY TO THE CITY AND ITS INHABITANTS AND AUTHORIZING THE CITY TO COLLECT FRANCHISE FEES FOR A PERIOD OF 25 YEARS.

BE IT ENACTED by the City Council of the City of Sutherland, Iowa:

Section 1. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called "Company,") and its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Sutherland, Iowa, (hereinafter called the "City,") a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, rights of way and alleys to serve customers within the City, and to furnish and sell electric energy to the City and its inhabitants. The Company is granted the right to exercise of powers of eminent domain, subject to City Council approval. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance.

Section 2. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa 2015 or as subsequently amended or changed.

Section 3. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as to excavate and bury conduits or conductors for the distribution of electric energy and communications signals in and through the City, provided the same shall be placed in accord with this franchise and City code regulations of the City, regarding the placement of structures, facilities, accessories or other objects in the right of way, including ordinances which assign corridors or other placements to users of the right of way and requirements which may be adopted regarding separation of structures, facilities, accessories or other objects.

Section 4. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's Tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended

("Tariff"), at its cost and expense, locate and relocate its existing installations located in, on, over or under the right-of-way of any public street, right of way or alley in the City in such a manner as the City may require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street right of way or alley. Relocation expenses for other hard surfaces, including pedestrian and non-motorized vehicle pathways, will be paid by the City. If the City has a reasonable alternative route for the street, right of way or alley or an alternative construction method, which would not cause the relocation of Company installations or would minimize the cost or expense of relocation of Company installations, the City and Company shall work together to consider said alternative route or construction method. The City shall, in the extension or modification of streets and roads, make provision for the placement of company service lines and facilities on City-owned right of way without charge to Company. In planning for the extension or modification of streets, the City shall, to the extent practicable design such changes to limit the need for relocation of Company facilities. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If vegetation and tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of vegetation and tree removals does not coincide with Company's facilities relocation schedule and the Company must remove vegetation and trees that are included in the City's portion of the project, the City shall either remove them or reimburse the Company for the expenses incurred to remove said materials. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

Section 5. In making excavations in any streets, avenues and public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets. The Company in making such excavations shall, if required by ordinance, obtain a City permit therefore and provide City representatives with advance notice prior to the actual commencement of the work, and shall comply with all provisions and requirements of the City in its regulation of the use of City right of way in performing such work. In emergencies which require immediate excavation, the Company may proceed with the work without first applying for or obtaining the permit, provided, however, that Company shall apply for and obtain the excavation permit as soon as possible after commencing such emergency work. The Company shall comply with all City ordinances regarding paving cuts, placement of facilities and restoration of pavement and

other public infrastructure. The Company shall replace the surface, restoring the condition as existed prior to the Company's excavation but shall not be required to improve or modify the public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition. Company shall complete all repairs in a timely manner. Company agrees any replacement of road surface shall conform to current City ordinances regarding its depth and composition.

Section 6. The City's vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has facilities in the vicinity, the City shall provide Company with not less than sixty (60) days advance notice of the city's proposed action and, upon request grant the Company a utility easement covering existing and future facilities and activities. If the City fails to grant the Company a utility easement for said facilities prior to abandoning or vacating a street, avenue, alley or public ground, the City shall at its cost and expense obtain easements for the existing Company facilities.

Section 7. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous ten (10) years.

Section 8. Pursuant to relocation of Company facilities, if the City orders or requests the Company to relocate its existing facilities or equipment in order to directly facilitate a project for the primary benefit of a commercial or private developer or other non-public entity, the City shall require the developer or non-public entity to reimburse the Company for the cost of such relocation as a precondition to relocation of its existing facilities or equipment. The Company shall not be required at its expense to relocate in order to facilitate such private project.

Section 9. The Company shall indemnify, save and hold harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

Section 10. The pruning and removal of vegetation and trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and state law, rules and

regulations. The pruning and removal of vegetation and trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and state law, rules and regulations. The Company is authorized and empowered to prune or remove at Company expense, any tree extending into any street, avenue, right of way, alley, public place or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches, or trunks from interfering with the wires and facilities of the Company. The pruning and removal of vegetation and trees shall be completed in accordance with nationally accepted safety and utility standards, NSI Z133.1-2012, American National Standard for Arboricultural Operations-Safety Requirements, and ANSI A300(part 1) – 2008 Pruning, (Revision of ANSI A300 part 1-2001) American National Standard for Tree, Shrub, and other Woody Plant Management – Standard of Practices (Pruning) or subsequent revisions to these standards, and City ordinances regarding the pruning of trees that incorporate by reference that standard.

Section 11. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in City right of way, including documents, maps and other information in paper or electronic or other forms (“Information.”) The Company and City recognize the Information may in whole or part be considered a confidential record under state or federal law or both. Therefore, City shall not release any Information without prior consent of the Company and shall return the Information to Company upon request. City recognizes that Company claims the Information may constitute a trade secret or is otherwise protected from public disclosure by state or federal law on other grounds, and agrees to retain the Information in its non-public files. Furthermore, the City agrees that no documents, maps or other Information provided to the City by the Company shall be made available to the public or other entities if such documents or Information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the Code of Iowa, as such statutes and regulations may be amended from time to time, then the Company shall provide the City with a written explanation of the basis for such assertion of confidentiality or exemption from disclosure within ten (10) days.

Section 12. The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law. During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with and

in accordance with the applicable regulations of the Iowa Utilities Board, the Company's tariff and made effective by the Iowa Utilities Board or its successors and Iowa law.

Section 13. There is hereby imposed upon the customers a franchise fee of three (3) percent upon the gross revenues, minus uncollectible accounts, generated from sales of electricity and distribution service by the Company within the corporate limits of the City. The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged.

A. The City agrees to modify the level of franchise fees imposed only once in any 24-month period.

B. The Company will commence collecting franchise fees on or before the first Company billing cycle of the first calendar month following ninety (90) days of receipt of information required of the City to implement the franchise fee, including the City's documentation of customer classes subject to or exempted from City-imposed franchise fee.

C. The City shall be solely responsible for identifying customer classes subject to or exempt from paying the City imposed franchise fee. The Company shall have no obligation to collect franchise fees from customers in annexed areas until and unless such ordinances have been provided to the Company by certified mail. The Company shall commence collecting franchise fees in the annexed areas no sooner than sixty (60) days after receiving annexation ordinances from the City.

D. The Company shall not, under any circumstances be required to return or refund any franchise fees that have been collected from customers and remitted to the City. In the event the Company is required to provide data or information in defense of the City's imposition of franchise fees or the Company is required to assist the City in identifying customers or calculating any franchise fee refunds for groups of or individual customers the City shall reimburse the Company for the expenses incurred by the Company to provide such data or information.

Section 14. Upon implementation of a franchise fee, the City shall not, pursuant to Chapter 480A.6 of the Code of Iowa, impose or charge Company right of way management fees for permits for Company construction, maintenance, repairs, excavation, pavement cutting or inspections of Company work sites and projects or related matters.

Section 15. This franchise shall apply to and bind the City and Company and their successors and assigns.

Section 16. Either City or Company (“party”) may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have sixty (60) days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

Section 17. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

Section 18. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within 10 days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the Code of Iowa. The effective date of this ordinance shall be the date of publication. In the event Company does not file its written acceptance of this ordinance within thirty (30) days after its approval by the City Council, this ordinance shall be void and of no effect.

Section 19. Upon the effective date of this ordinance, all prior franchises granted to the Company to furnish electric service to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

CHAPTER 112 - TELEPHONE FRANCHISE

CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted
112.02 Construction and Maintenance
112.03 Restoration of Public Ways
112.04 Regulation by City

112.05 Liability
112.06 Service Provided
112.07 Nonexclusive Franchise
112.08 Protection of Company

112.01 FRANCHISE GRANTED. The West Iowa Telephone Company of Remsen, Iowa, a corporation organized under the laws of the State of Iowa (herein referred to as the "Company"), its successors and assigns, for a term of twenty-five (25) years from and after the adoption, approval and final acceptance of the ordinance codified in this chapter, to erect, maintain and operate a telephone system within the present and future corporate limits of the City. The Company, its successors and assigns are granted the right, privilege and authority to erect and install all necessary poles, towers, conduits, manholes, wires, cables, fixtures and apparatus over, across and under the streets, alleys and public ways of the City and over and across any private lands therein upon proper proceedings in eminent domain for the said period of time and for said purposes upon the terms and conditions set out in this chapter.

112.02 CONSTRUCTION AND MAINTENANCE. All poles and fixtures erected, operated and maintained by the Company under virtue of this chapter shall be located, erected and maintained under the supervision and direction of the Council and shall be so located as not to interfere permanently with or obstruct the free public use of or travel over any street, alley or public way, or permanently interfere with the repairs of the same.

112.03 RESTORATION OF PUBLIC WAYS. After the placing of any conduit or manhole, or the erection of any pole or fixture, or the removal thereof, the Company shall, at its own expense, restore the surface of the street, alley, sidewalk or public way which was disturbed to the condition found prior to commencement of such work. All such restoration of public streets, alleys, sidewalks or ways shall be done under the supervision of the streets and alleys committee of the Council.

112.04 REGULATION BY CITY. The franchise is granted subject to all ordinances now in effect in the City and such other reasonable regulations by ordinance as may be enacted by the City.

112.05 LIABILITY. The Company shall hold the City free and harmless from any and all damages of every kind and character whatsoever caused by the construction, operation and maintenance of said telephone lines, fixtures and equipment.

112.06 SERVICE PROVIDED. The Company agrees to exercise reasonable diligence to provide to the City and the residents thereof prompt and efficient telephone service without discrimination either in rates or service between subscribers for the same class of service. The rate or charge for such service shall at all times be just and reasonable.

112.07 NONEXCLUSIVE FRANCHISE. Nothing in this chapter shall be construed as granting to the Company the exclusive right or franchise to use the streets or alleys of the City for said purposes or to prevent the grant of similar privileges to other individuals or corporations for like purposes.

112.08 PROTECTION OF COMPANY. The City shall pass such ordinances as the Council may deem necessary or advisable for the due, legal and complete protection of the Company in the enjoyment of all its rights and privileges granted herein and shall attach lawful penalty for interference with or damage to the property of the Company.

EDITOR'S NOTE

Ordinance No. 79-4 adopting a telephone franchise for the City was passed and adopted on May 22, 1979. Voters approved the franchise at an election held in 1979, and the Company accepted the franchise on July 2, 1979.

CHAPTER 113 – CABLE TV FRANCHISE AND REGULATIONS

CHAPTER 113

CABLE TELEVISION FRANCHISE AND REGULATIONS

113.01 Definitions	113.12 Discriminatory Practices Prohibited
113.02 Grant of Authority	113.13 Transfer of Franchise
113.03 Compliance with Laws and Ordinances	113.14 City Rights in Franchise
113.04 Territorial Area Involved	113.15 Maps, Plats and Reports
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113.08 Operation and Maintenance of Equipment	113.19 Erection, Removal and Common User of Poles
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113.10 Safety Requirements	113.21 Rates and Charges
113.11 Conditions on Street Occupancy	113.22 Modification of Regulations

113.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. "Community Antenna Television System," hereinafter referred to as "CATV system" or "system," means a system of coaxial cables or other electrical conductors and equipment used or to be used primarily to receive television or radio signals directly or indirectly off-the-air and transmit them to subscribers for a fee.
2. "FCC" means Federal Communications Commission.
3. "Grantee" means Cliff Plagman or anyone who succeeds Cliff Plagman, in accordance with the provisions of this chapter.

113.02 GRANT OF AUTHORITY. There is hereby granted by the City to the Grantee the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, alleys, public ways, and public places now laid out or dedicated and all extensions thereof and additions thereto in the City, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the City of a CATV system for the interception, sale and distribution of television and radio signals. The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive and the City reserves the right to grant a similar use of said streets, alleys, public ways and places to any person at any time during the period of the franchise.

113.03 COMPLIANCE WITH LAWS AND ORDINANCES. The Grantee shall, at all times during the life of the franchise, be subject to all lawful

exercise of the police power of the City and to such reasonable regulations as the City shall hereafter provide.

113.04 TERRITORIAL AREA INVOLVED. The franchise relates to the present City limits of the City as well as to any area henceforth added thereto during the term of the franchise. Once original construction is complete, the Grantee will build into additional areas as economic feasibility dictates.

113.05 LIABILITY AND INDEMNIFICATION.

1. The Grantee shall pay and by its acceptance of the franchise the Grantee specifically agrees that it will pay all damages and penalties which the City may legally be required to pay as a result of granting the franchise. These damages or penalties shall include, but shall not be limited to, damages arising out of copyright infringements and all other damages arising out of the installation, operation or maintenance of the CATV system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this chapter.

2. The Grantee shall pay and by its acceptance of the franchise specifically agrees that it will pay all expenses incurred by the City in defending itself with regard to all damages and penalties mentioned in subsection 1 above. These expenses shall include all out-of-pocket expenses, such as attorney fees, court costs and the like but Grantee shall have the sole responsibility and authority to elect the attorney who shall handle the disposition of any litigation or dispute or for whose fee it becomes responsible under this section.

3. The Grantee shall maintain and by its acceptance of the franchise specifically agrees that it will maintain throughout the term of the franchise liability insurance insuring the City and the Grantee with regard to all damages mentioned above in the minimum amounts of:

A. \$500,000.00 for bodily injury or death of any one person, with the limit, however, of \$1,000,000.00 for bodily injury or death resulting from any one accident.

B. \$100,000.00 for property damage resulting from one accident.

C. Worker's compensation coverage covering all of Grantee's employees.

A certificate of insurance coverage shall be provided to the City, together with the payment of required premiums upon request of the City during the term of the franchise.

113.06 COLOR TV. The facilities used by the Grantee shall be capable of distributing color TV signals, and when the signals the Grantee distributes are received in color, they shall be distributed in color where technically feasible.

113.07 SIGNAL QUALITY REQUIREMENTS. The Grantee shall

1. Produce a picture, whether in black and white or in color, that is undistorted, free from ghost images and accompanied with proper sound on typical standard production TV sets in good repair and as good as the state of the art allows.
2. Limit failures attributable to Grantee's equipment outages to a minimum by locating and correcting malfunctions promptly, but in no event longer than seventy-two (72) hours after notice with normal outages to be corrected as soon as feasible as dictated by the availability of necessary replacement equipment where required.

113.08 OPERATION AND MAINTENANCE OF EQUIPMENT.

1. The Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruption insofar as possible shall be preceded by notice and shall occur during periods of minimum use of the system.
2. The Grantee shall have a listed local telephone, and be so operated that complaints and requests for repairs or adjustments may be received during normal business hours.

113.09 PROGRAM ALTERATION. The Grantee shall comply with all Federal Communications Commission regulations regarding the carriage of the programming of any existing or future television broadcast, program alteration, advertising, availability of local origination and such other regulations and provisions as are set down by the Federal Communications Commission.

113.10 SAFETY REQUIREMENTS.

1. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

2. The Grantee shall install and maintain its wires, cables, fixtures and other equipment in accordance with the requirements of the National Electric Safety Code as promulgated by the National Bureau of Standards and the National Electrical Code of the National Board of Fire Underwriters and in such manner that they will not interfere with any installation of the City or of a public utility serving the City.

113.11 CONDITIONS ON STREET OCCUPANCY.

1. If at any time during the period of the franchise the City shall lawfully elect to alter or change the grade of any street, sidewalk, alley or other public way, the Grantee, upon reasonable notice by the City, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

2. Any poles or other fixture placed in any public way by the Grantee shall be placed in such a manner as not to interfere with the usual travel on such public way.

3. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of the wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than a one-week advance notice to arrange for such temporary wire changes.

4. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public ways and places of the City so as to prevent the branches of the trees from coming in contact with the wires and cables of the Grantee.

5. In all sections of the City where the cables, wire or other like facilities of public utilities are placed underground, the Grantee shall place its cables, wires or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so.

113.12 DISCRIMINATORY PRACTICES PROHIBITED. The Grantee shall not, as to rates, charges, service, service facilities, rules, regulations or in any other respect make or grant any undue preference or advantage to any person or subject any person to prejudice or disadvantage.

113.13 TRANSFER OF FRANCHISE. It is understood that the Grantee is an individual, but at some time during the term of the franchise the Grantee may

organize in a different form of doing business and in the event of a change in the form of doing business, the City shall allow the Grantee to assign the franchise to the form of business chosen as long as the Grantee maintains an ownership interest in the said form of business, but the Grantee shall not transfer the franchise to another person without prior approval of the City, which approval shall not be unreasonably withheld. In the event of such an assignment, the Grantee shall forthwith notify the City in writing setting forth the name of the business and the names and addresses of the owners.

113.14 CITY RIGHTS IN FRANCHISE.

1. The right is hereby reserved to the City by the Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, 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 herein granted.
2. The City shall have the right to inspect the maps, plans and other like materials of the Grantee at any time during normal business hours.
3. At the expiration of the term for which the franchise is granted, or upon its termination and cancellation, as provided for herein, the City shall have the right to require the Grantee to remove at its own expense all aerial portion of the CATV system from all public ways within the City.

113.15 MAPS, PLATS AND REPORTS. The Grantee shall file with the City true and accurate as-built plans of its plant as constructed, including maps and plats of the same, and shall after initial construction provide to the City copies of said material so as to keep the City adequately advised as to any extensions or increases in the original system.

113.16 FORFEITURE OF FRANCHISE. In addition to all of the rights and powers pertaining to the City by virtue of the franchise or otherwise, the City reserves the right to terminate and cancel the franchise and all rights and privileges of the Grantee hereunder in the event that the Grantee:

1. Violates any provisions of the franchise or any rule, order or determination of the City or Council made pursuant to the franchise, except where such violation, other than of subsection 2 below, is without fault or through excusable neglect;
2. Becomes insolvent, unable or unwilling to pay its debts, or is adjudged as bankrupt;

3. Attempts to evade any of the provisions of this chapter or practices any fraud or deceit upon the City; or
4. Fails to complete an operational system under the franchise as provided therein.

Such termination and cancellation shall be by ordinance duly adopted after no less than forty-five (45) days' notice to the Grantee and pursuant to hearing and shall in no way affect any of the City's rights under the franchise or any provision of law.

113.17 CITY'S RIGHT OF INTERVENTION. Nothing in this chapter shall operate to prevent the intervention by the City in any suit or proceeding to which the Grantee is a party.

113.18 DURATION OF FRANCHISE. The franchise and the rights, privileges and authority hereby granted shall continue in force for a term of twenty-five (25) years.

113.19 ERECTION, REMOVAL AND COMMON USER OF POLES.

1. No poles or other wire-holding structures shall be erected by the Grantee without prior approval of the City with regard to location, height, type and any other pertinent aspect. However, no location of any pole or wire-holding structure of the Grantee shall be vested interest and such poles or structures shall be removed or modified by the Grantee at its own expense whenever the Council determines that the public convenience would be enhanced thereby.
2. Where poles or other wire-holding structures already exist for use in serving the City are available for use, the Council may require the Grantee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the Grantee are just and reasonable.
3. Where the City or public utilities serving the City desire to make use of the poles or other wire-holding structures of the Grantee, but agreement therefor with the Grantee cannot be reached, the Council may require the Grantee to permit such use for such consideration and upon such terms as the Council shall determine to be just and reasonable if the Council determines that the use would enhance the public convenience and would not unduly interfere with the Grantee's operations.

113.20 NUMBER OF CHANNELS. The Grantee's cable distribution system shall be capable of carrying at least twenty-one (21) television channels.

Further, the Grantee shall make available upon the request of the Council one channel for educational TV and one channel for any other non-commercial service for the benefit of the inhabitants of the City. Further, the Grantee shall provide a minimum of 12 operating channels of which at least one channel will be of a premium nature, subject to approval of the FCC.

113.21 RATES AND CHARGES. In consideration for services rendered to subscribers, the Grantee shall have the right to charge and collect from subscribers fair and reasonable compensation calculated to offset all necessary costs for provision of the services and including a fair rate of return on investment devoted thereto, under efficient and economical management.

113.22 MODIFICATION OF REGULATIONS. Any modification of the provisions of the applicable rules and regulations of the FCC resulting from amendment by the Commission shall be incorporated into the franchise agreement within one year of the adoption of the modification or at the time of franchise renewal, whichever occurs first. It is the intention of this provision to fully comply with said rules and the intention of the City to insure that the franchise conform to said rules.

EDITOR'S NOTE

Ordinance No. 102 adopting a cable TV franchise for the City was passed and adopted on November 2, 1981.

ASSIGNMENT AND ASSUMPTION OF FRANCHISE

THIS ASSIGNMENT AND ASSUMPTION OF FRANCHISE is made and entered into this 31st day of May, 2000, by and between New Century Communications Company, an Iowa corporation, (NCCC), (formerly Cable Systems Management of Iowa, Inc. - CSMI)("Seller"), and NWIDT, an Iowa corporation, of Remsen, Iowa ("Buyer"):

WHEREAS, Buyer and Seller are parties to that certain Asset Sale Agreement dated February 18, 2000 ("The Purchase Agreement"), providing for the sale, transfer, assignment and conveyance to Buyer of the Assets defined in the Purchase Agreement, relating to the operation of those certain cable television systems serving certain counties, cities and towns, as listed in said Purchase Agreement and located in the State of Iowa, in accordance with and subject to the terms and conditions set forth therein; and

WHEREAS, Seller is the holder of the cable television franchise granted by the City of Sutherland, (the "Franchise Authority"), pursuant to the Ordinance, sometimes known as the Cable TV Franchise dated November 2, 1981, (the "Franchise"); and

WHEREAS, in the Purchase Agreement it was agreed that upon consummation of the Purchase Agreement, Seller would transfer and assign the Franchise to Buyer, and Buyer would assume the Franchise; and

WHEREAS, the aforementioned Franchise Authority acknowledges, accepts and consents to such transfer and assignment of the Franchise, in its amended form as incorporated herein, by the Seller and such assumption by the Buyer.

NOW, THEREFORE, in consideration of the payment by Buyer of the purchase price pursuant to the Purchase Agreement, and in accordance with the terms of the Purchase Agreement, Buyer and Seller agree as follows:

1. Assignment. Seller does hereby sell, assign and transfer to Buyer all of Seller's rights, title and interest in and to the franchise.
2. Assumption. Buyer, and its successors and assignees, shall hold all of Seller's rights, title and interest in the Franchise, and shall assume, pay, and discharge and perform all of the obligations and liabilities of Seller arising after the date of sale assignment and transfer of said Franchise under the terms of the Franchise.
3. Miscellaneous. This Agreement and Assumption is subject to and controlled by the terms of the Purchase Agreement. Further, this Assignment and Assumption may be executed in one or more counterparts and all such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, Buyer and Seller have caused this Assignment and Assumption to be duly executed as of the date first written above.

BUYER
NWIDT, an
Iowa corporation

SELLER
New Century Communications Co.,
an Iowa corporation

By: Wm. H. Paulsen
Secretary / Treasurer

By: Paul L. Smith
Pres.

Acceptance by Franchise Authority
Approved by the City Council of Sutherland
This 6 day of may, 2000.

Colleen D. Johnson
Mayor

Attest:

Betty K. Hill
City Clerk

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REGULATION OF BUSINESS AND VOCATIONS

CHAPTER 120 - BEER, LIQUOR AND WINE CONTROL -

120.01 General Prohibition

120.02 Persons Under Legal Age

120.03 Public Consumption or Intoxication

120.04 Open Containers in Motor Vehicles

120.05 License or Permit Required

120.06 Prohibited Sales and Acts

120.01 GENERAL PROHIBITION.

It is unlawful to manufacture for sale, sell, offer or keep for sale, possess, or transport alcoholic liquor, wine, or beer except upon terms, conditions, limitations, and restrictions enumerated in State law and this Code of Ordinances.

(Code of Iowa, Sec. 123.2)

120.02 PERSONS UNDER LEGAL AGE.

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

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under legal age.

(Code of Iowa, Sec. 123.47 (1))

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

3. A person who is under legal age, other than a licensee or permittee, who violates Code of Iowa Section 123.47 regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, or possessing or having control of alcoholic liquor, wine, or beer, commits the following:

(Code of Iowa, Sec. 123.47 (3))

- a. A simple misdemeanor punishable as a scheduled violation under Code of Iowa section 805.8C, subsection 7.
- b. A second offense shall be a simple misdemeanor punishable by a fine of five hundred dollars. In addition to any other applicable penalty, the person in violation of this section shall choose between either completing a substance abuse evaluation or the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

- c. A third or subsequent offense shall be a simple misdemeanor punishable by a fine of five hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year

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

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

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

120.03 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:
 - A. "Arrest" means the same as defined in section 804.5 of the Code of Iowa and includes taking into custody pursuant to section 232.19 of the Code of Iowa.
 - B. "Chemical test" means a test of a person's blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.
 - C. "Peace Officer" means the same as defined in section 801.4 of the Code of Iowa.
 - D. "School" means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.
2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function.
3. A person shall not be intoxicated or simulate intoxication in a public place.
4. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

120.04 OPEN CONTAINERS IN MOTOR VEHICLES.

(See Section 62.09 of this Code of Ordinances.)

120.05 LICENSE OR PERMIT REQUIRED.

It is unlawful for any person to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.2 and 123.171)

120.06 PROHIBITED SALES AND ACTS.

No person or club holding a liquor license or beer or wine permit nor his agents or employees shall do any of the following:

1. Intoxicated Persons. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor or beer.

(Code of Iowa, Sec. 123.49(1))

2. Hours of Operation. Sell or dispense any alcoholic beverage or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday, however, a holder of a liquor control license or retail beer permit granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense alcoholic liquor or beer between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday.

(Code of Iowa, Sec. 123.49(2b))

3. Credit Sales. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests, nor to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49(2c))

4. Employment Of Minors. Employ any person under 18 years of age in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49(2f))

5. Selling To Minors. Sell, give, or otherwise supply any alcoholic beverage, wine, or beer to any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, or permit any person, knowing or failing to exercise reasonable care to ascertain whether the person is under legal age, to consume any alcoholic beverage, wine, or beer

(Code of Iowa, Sec. 123.49(2h))

6. Mixing Of Alcoholic Beverage. In the case of a retail beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer or any other beverage in or about his place of business.

(Code of Iowa, Sec. 123.49(2i))

7. Soliciting And Disorderly Conduct. Knowingly permit any gambling, except in accordance with Code of Iowa Chapter 99B, 99D, 99F, or 99G, or knowingly permit any solicitors for unusual purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49(2a))

8. Advertisement For Alcoholic Liquor, Wine, Or Beet Beer Brand Signs Prohibited. Permit any signs or other matter advertising any brand of alcoholic liquor, beer, or wine shall 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. This section does not prohibit the use of signs or other matter inside a fence or similar enclosure which wholly or partially surrounds the licensed premises.

(Code of Iowa, Sec. 123.51)

CHAPTER 121 CIGARETTE AND TOBACCO PERMITS

121.01 Definitions

121.02 Permit Required

121.03 Application

121.04 Fees

121.05 Issuance and Expiration

121.06 Refunds

121.07 Persons Under Legal Age

121.08 Self-Service Sales Prohibited

121.09 Permit Revocation

121.01 DEFINITIONS.

For use in this chapter the following terms are defined:

(Code of Iowa, Sec. 453A.1)

1. "Carton" means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition is not to be construed to include cigars.
3. "Package" or "pack" means a container of any kind in which cigarettes or tobacco products are offered for sale, sold or otherwise distributed to consumers.
4. "Place of business" means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.
5. "Retailer" shall mean and include every person in this state who shall sell, distribute, or offer for sale for consumption or possess for the purpose of sale for consumption, cigarettes, alternative nicotine products, or vapor products irrespective of quantity or amount or the number of sales.
6. "Self-service display" means any manner of product display, placement or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.
7. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell or solicit the sale of any cigarettes within the City without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

(Code of Iowa, Sec. 453A.13 (1&10))

2. Permit Required for Tobacco, Tobacco Products, Alternative Nicotine Products, or Vapor Products. It is unlawful for any person to engage in the business of a retailer of tobacco product, alternative nicotine products, or vapor products at any place of business without first having received a permit as a tobacco products, alternative nicotine products, or vapor products at any place of business without first having received a permit as a retailer. A permit shall be obtained for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION.

A completed application on forms provided by the State Department of Revenue and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES.

The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	\$ 75.00
October, November or December	\$ 56.25
January, February or March	\$ 37.50
April, May or June	\$ 18.75

121.05 ISSUANCE AND EXPIRATION.

Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS.

A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the Code of Iowa.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE.

No person shall sell, give or otherwise supply any tobacco, tobacco products or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
2. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.
3. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
4. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
5. For a fifth violation with a period of four (4) years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED.

Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the Code of Iowa, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION.

Following a written notice and an opportunity for a hearing, as provided by the Code of Iowa, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the Code of Iowa or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

(Code of Iowa, Sec. 453A.22)

CHAPTER 122 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose	122.11 Revocation of License
122.02 Definitions	122.12 Notice
122.03 License Required	122.13 Hearing
122.04 Application for License	122.14 Record and Determination
122.05 Consideration of Application	122.15 Appeal
122.05 License Fees	122.16 Effect of Revocation
122.06 Bond Required	122.17 Rebates
122.07 License Issued	122.18 License Exemptions
122.08 Display of License	122.19 Charitable and Nonprofit Organizations.
122.09 License Not Transferable	
122.10 Time Restriction	

122.01 PURPOSE.

The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

122.02 DEFINITIONS.

For use in this chapter the following terms are defined:

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.
2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.
3. "Transient merchant" as used herein shall mean and include every merchant, whether an individual person, a firm, corporation, partnership or association, and whether owner, agent, bailee, consignee or employee, who shall bring or cause to be brought within the state of Iowa any goods, wares or merchandise of any kind, nature or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares or merchandise within the state of Iowa. The term "*transient merchant*" shall also mean and include every merchant, whether an individual person, a firm, corporation, partnership or an association, who shall by itself, or by agent, consignee or employee temporarily or intermittently engage in or conduct at one or more locations a business within the state of Iowa for the sale at retail of any goods, wares or merchandise of any nature or description. A merchant engaging in business shall be presumed to be temporarily or intermittently in business unless it is the intention of such merchant to remain continuously in business at each location where the merchant is engaged in business within the state of Iowa as a merchant for a period of more than sixty days. The provisions of this chapter shall not be construed to apply to persons selling at wholesale to merchants, nor to transient vendors of drugs, nor to persons running a huckster wagon, or selling or distributing livestock feeds, fresh meats, fish, fruit, or vegetables, nor to persons selling their own work

or production either by themselves or employees.
(Code of Iowa, Sec. 9C.1)

122.03 LICENSE REQUIRED.

Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE.

An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license, a statement as to whether or not the applicant has ever been convicted of a felony or a misdemeanor, and, if so, the nature of the offense and the penalty imposed; and a description of any motor vehicles to be used by the applicant (including make, model, year, color and registration number). The application shall include a copy of a driver's license or state issued photo identification card. An application fee of five dollars (\$5.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 CONSIDERATION OF APPLICATION.

Upon receipt of the application and the required application fee, the clerk, with the assistance of law enforcement, shall investigate the application. If the statements contained in the application are found to be true and correct, the clerk shall issue a registration certificate to the applicant conforming to the application. However, the clerk shall not approve a registration under any of the following circumstances:

- A. The applicant is found to have been convicted of a felony or a misdemeanor involving moral turpitude.
- B. The application is determined to contain any false statement or information.
- C. The activities of the applicant as a solicitor, peddler or transient merchant have been the subject of complaints by citizens in this city or in other cities where the applicant has conducted business; which complaints cannot be shown to have been resolved or explained to the satisfaction of the city clerk.

122.05 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 ten dollars (\$10.00) per year.

2. Peddlers or Transient Merchants.

- A. For one day \$ 10.00
- B. For one week \$ 25.00
- C. For up to six (6) months \$ 50.00
- D. For one year or major part thereof \$ 100.00

122.06 BOND REQUIRED.

Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 LICENSE ISSUED.

If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE.

Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE.

Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION.

All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of eight o'clock (8:00) a.m. and seven o'clock (7:00) p.m.

122.11 REVOCATION OF LICENSE.

After notice and hearing, the Clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.
2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.
3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner

as to endanger the public welfare, safety, order or morals.

122.12 NOTICE.

The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING.

The Clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Clerk may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION.

The Clerk shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Clerk finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 APPEAL.

If the Clerk revokes or refuses to issue a license, the Clerk shall make a part of the record the reasons therefor. The licensee, or the applicant, shall have a right to a hearing before the Council at its next regular meeting. The Council may reverse, modify or affirm the decision of the Clerk by a majority vote of the Council members present and the Clerk shall carry out the decision of the Council.

122.16 EFFECT OF REVOCATION.

Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.17 REBATES.

Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee paid if the license is surrendered before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least five dollars (\$5.00) of the original fee shall be retained by the City to cover administrative costs.

122.18 LICENSE EXEMPTIONS.

The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.
2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future

Farmers of America and similar organizations.

3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.
4. Students. Students representing the Milford Community School District and Arnolds Park-Okoboji Community School District conducting projects sponsored by organizations recognized by the school.
5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.
6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.19 CHARITABLE AND NONPROFIT ORGANIZATIONS.

Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant. In the event the Clerk denies the exemption, the authorized representatives of the organization may appeal the decision to the Council, as provided in Section 122.15 of this chapter.

**ORDINANCE NO. 2017-003
AN ORDINANCE ADDING SECTION 122.20 TO
CHAPTER 122 PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS
IN THE SUTHERLAND 2016 MUNICIPAL CODE OF ORDINANCES OF THE CITY
OF SUTHERLAND, IOWA AND ENTITLED "RAGBRAI - MISCELLANEOUS
PERMITS"**

Be it enacted by the City Council of Sutherland, Iowa:

SECTION 1: This ordinance as outlined is enacted to help city officials and citizens deal with the public health and safety problems created by the infusion of a large number of people into the City of Sutherland when the Des Moines Register's Annual Great Bicycle Ride Across Iowa™ (RAGBRAI®) arrives in Sutherland on July 23, 2017, and departs on July 23, 2017.

SECTION 2: That Section 122.20 RAGBRAI - Miscellaneous Permits of the Code of Ordinances of the City of Sutherland, Iowa, be and the same is hereby added to read as follows:

Chapter 122.20 RAGBRAI Ordinance - Miscellaneous Permits

Sections:

122.20.01 Commercial Booth-Permit Required

122.20.02 Commercial Booth Fees

- 122.20.03 Commercial Booth Location
- 122.20.04 Health Regulations
- 122.20.05 Commercial Booth Non-Food - Permit Required
- 122.20.06 Commercial Booth Non-Food Fees
- 122.20.07 Commercial Booth Non-Food Location
- 122.20.08 Glass Containers
- 122.20.09 Nuisance
- 122.20.10 Violations-Penalties
- 122.20.11 Effective Period
- 122.20.12 Street Closings

122.20.01 Commercial Booth - Permit Required. No person, club, group, organization, corporation or entity of any kind shall provide or sell food to the public in Sutherland, Iowa on July 23, 2017, unless said person or entity shall first obtain a Commercial Booth Permit from the City of Sutherland through the City Clerk located at 110 Ash Street in Sutherland, Iowa. However, any person or entity which is a resident of O'Brien County and in possession of a valid permit issued by the State of Iowa for the sale of food to be consumed on its premises as of June 1, 2017, or in possession of a current Iowa retail sales tax permit, shall be exempt from the requirements of this Section.

122.20.02 Commercial Booth Fees. The fee for a Sutherland Commercial Booth Permit shall be \$300.00. Booth space is 10' x 20'. An additional \$100 will be charged for an extra space of 10' x 10'. Electrical service is an additional \$50.00 fee.

122.20.03 Commercial Booth Location. A vendor who has been granted a Sutherland Commercial Booth permit shall locate its temporary sale facility at a location to be determined by the official Sutherland RAGBRAI Committee.

122.20.04 Health Regulations. A person or entity issued a commercial booth permit pursuant to this Chapter (a RAGBRAI COMMERCIAL BOOTH PERMITTEE herein) shall comply with the Iowa Department of Health and O'Brien County Department of Health rules and regulations pertaining to the sale and dispensing of food for consumption on its premises.

122.20.05 Commercial Booth Non-Food – Permit Required. No person, club, group, organization, corporation or entity of any kind shall provide services or sell items to the public in Sutherland, Iowa on July 23, 2017, unless said person or entity shall first obtain a Commercial Booth Non-Food Permit from the City of Sutherland through the City Clerk located at 110 Ash Street in Sutherland, Iowa. However, any person or entity which is a resident of O'Brien County and in possession of a current Iowa retail sales tax permit, shall be exempt from the requirements of this Section.

122.20.06 Commercial Booth Non-Food Fees. The fee for a Sutherland Commercial Booth Non-Food Permit shall be \$100.00. Booth space is 10' x 20'. An additional \$100 will be charged for an extra space of 10' x 10'. Electrical service is an additional \$50.00 fee.

122.20.07 Commercial Non-Food Location. A vendor who has been granted a Sutherland Commercial Booth Non-Food permit shall locate its temporary sale facility at a location to be determined by the official Sutherland RAGBRAI Committee.

122.20.08 Glass Containers. To promote safety during RAGBRAI, all beverages sold in Sutherland, Iowa, by Commercial Booth permittees, on July 23, 2017 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.

122.20.09 Nuisance. The sale of food or the erection of a temporary facility for the sale of food or other merchandise without a Sutherland Commercial Booth or Sutherland Commercial Booth Non-Food permit on July 23, 2017, in violation of the provisions of this Chapter shall be considered a nuisance, as defined by Section 50.31 of the City Code of Ordinances. If this type of nuisance is determined to exist, an emergency abatement procedure pursuant to Subsection 50.09 of the City Code is hereby authorized and may be executed by any City Official or those acting at their direction by dismantling and removing the nuisance without notice. However, if the only nuisance or violation of this chapter is the offender's failure to obtain the necessary permit, the RAGBRAI Committee, in lieu of immediate abatement, may allow the person or organization to immediately purchase (cash only) a necessary permit as provided by this Ordinance.

5.08.100 Violations - Penalties. Selling or supplying food or merchandise to any person without a Sutherland Commercial Booth or Sutherland Commercial Booth Non-Food permit on July 23, 2017, or any violation of this chapter 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 3 of the City Code of Ordinances, and, therefore, any civil penalties may likewise be assessed and enforced as set forth.

5.08.110 Effective Period. The provisions of this ordinance shall be effective from 5:00 a.m. (local time) on July 22, 2017 until 5:00 p.m. (local time) on July 24, 2017.

5.08.120 Street Closings. During the effective dates of this ordinance and without prior Council approval regarding the blocking of any city streets, any Sutherland City police officer, or those at their direction, may place barricades or road blocks in any City street, alley or roadway to redirect vehicular traffic in order to enhance the proper and safe flow of bicycle and vehicular traffic within the City limits of the City of Sutherland.

SECTION 3: REPEALER. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

SECTION 4: SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional such adjudication shall not affect the validity of this ordinance as a whole or any section, provision, or party thereof not adjudged invalid or unconstitutional.

SECTION 5: WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval, and publication as provided by law.

Passed and approved by this Council on the 1st day of May, 2017.

CHAPTER 123 - HOUSE MOVERS

123.01 House Mover Defined

123.02 Permit Required

123.03 Application

123.04 Bond Required

123.05 Insurance Required

123.06 Permit Fee

123.07 Permit Issued

123.08 Public Safety

123.09 Time Limit

123.10 Removal by City

123.11 Protect Pavement

123.12 Overhead Wires

123.01 HOUSE MOVER DEFINED.

A "house mover" means any person who undertakes to move a building or similar structure upon, over or across public streets or property when the building or structure is of such size that it requires the use of skids, jacks, dollies or any other specialized moving equipment.

123.02 PERMIT REQUIRED.

It is unlawful for any person to engage in the activity of house mover as herein defined without a valid permit from the City for each house, building or similar structure to be moved. Buildings of less than one hundred (100) square feet are exempt from the provisions of this chapter.

123.03 APPLICATION.

Application for a house mover's permit shall be made in writing to the Clerk. The application shall include:

Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.

Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.

Routing Plan. A routing plan approved by the Mayor, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

123.04 BOND REQUIRED.

The applicant shall post with the Clerk a penal bond in the minimum sum of five thousand dollars (\$5,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of moving the building or structure.

123.05 INSURANCE REQUIRED.

Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

Bodily Injury - \$50,000 per person; \$100,000 per accident.

Property Damage - \$50,000 per accident.

123.06 PERMIT FEE.

A permit fee of twenty dollars (\$20.00) shall be payable at the time of filing the application with the Clerk. A separate permit shall be required for each house, building or similar structure to be moved.

123.07 PERMIT ISSUED.

Upon approval of the application, filing of bond and insurance certificate, and payment of the required fee, the Clerk shall issue a permit.

123.08 PUBLIC SAFETY.

At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the permittee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the permittee shall maintain adequate warning signs or lights at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

123.09 TIME LIMIT.

No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the City.

123.10 REMOVAL BY CITY.

In the event any building or similar structure is found to be in violation of Section 123.09 the City is authorized to remove such building or structure and assess the costs thereof against the permit holder and the surety on the permit holder's bond.

123.11 PROTECT PAVEMENT.

It is unlawful to move any house or building of any kind over any pavement, unless the wheels or rollers upon which the house or building is moved are at least one (1) inch in width for each one thousand (1,000) pounds of weight of such building. If there is any question as to the weight of a house or building, the estimate of the City as to such weight shall be final.

123.12 OVERHEAD WIRES.

The holder of any permit to move a building shall see that all telephone, cable television and electric wires and poles are removed when necessary and replaced in good order, and shall be liable for the costs of the same.

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STREETS AND SIDEWALKS

CHAPTER 135 - STREET USE AND MAINTENANCE

135.01 Definitions

135.02 Removal of Warning Devices

135.03 Obstructing or Defacing

135.04 Placing Debris on

135.05 Playing In

135.06 Traveling On Barricaded Street or Alley

135.07 Use for Business Purposes

135.08 Washing Vehicles

135.09 Burning Prohibited

135.10 Excavations

135.11 Maintenance of Parking or Terrace.

135.12 Failure to Maintain Parking or Terrace

135.13 Dumping of Snow

135.14 Driveway Culverts

135.15 Mailboxes

135.01 DEFINITIONS.

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

1. “Parking” means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets or streets having no curb, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.
2. “Property owner” means a person owning private property in the City as shown on the County Auditor’s plats of the City.
3. “Public property” means any and all property located within the confines of the City and owned by the City or held in the name of the City by any of the departments, commissions or agencies within the City government.

135.02 REMOVAL OF WARNING DEVICES.

It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street, alley or recreational trail any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street, alley or recreational trail without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.03 OBSTRUCTING OR DEFACING.

It is unlawful for any person to obstruct, deface, or injure any street, alley or recreational trail in any manner.

(Code of Iowa, Sec. 716.1)

135.04 PLACING DEBRIS ON.

It is unlawful for any person to throw or deposit on any street, alley or recreational trail any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.05 PLAYING IN.

It is unlawful for any person to coast, sled or play games on streets, alleys or recreational trails, except in the areas blocked off by the City for such purposes.

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

135.06 TRAVELING ON BARRICADED STREET OR ALLEY.

It is unlawful for any person to travel or operate any vehicle on any street, alley or recreational trail temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.07 USE FOR BUSINESS PURPOSES.

It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street, alley or recreational trail for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.08 WASHING VEHICLES.

It is unlawful for any person to use any public sidewalk, street, alley or recreational trail for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.09 BURNING PROHIBITED.

No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street, alley or recreational trail.

135.10 EXCAVATIONS.

No person shall dig, excavate or in any manner disturb any street, parking, alley or recreational trail except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:

- A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;
 - B. A statement of the purpose, for whom and by whom the excavation is to be made;
 - C. The person responsible for the refilling of said excavation and restoration of the street, alley or recreational trail surface; and
 - D. Date of commencement of the work and estimated completion date.
2. Public Convenience. Streets, alleys and recreational trails shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.
 3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.
 4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of one thousand dollars (\$1,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.
 5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:
 - A. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
 - B. Property Damage - \$50,000.00 per accident.
 6. Restoration of Public Property. Streets, sidewalks, alleys, recreational trails and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City, at the expense of the permit holder/property owner.
 7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street, alley or recreational trail surface begun, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.
 8. Completion by the City. Should any excavation in any street, alley or recreational trail be discontinued or left open and unfinished for a period of twenty-four (24) hours after the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.
 9. Responsibility for Costs. All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.
11. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued. A separate permit shall be required for each excavation.
12. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions.

135.11 MAINTENANCE OF PARKING OR TERRACE.

It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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 or parking area.

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

See Chapter 151 Trees, Section 151.03

135.12 FAILURE TO MAINTAIN PARKING OR TERRACE.

If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.13 DUMPING OF SNOW.

It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street, alley or recreational trail so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.14 DRIVEWAY CULVERTS.

The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

135.15 MAILBOXES. Mailboxes or receptacles for receipt of US mail service may be erected on public property, provided that all such boxes or receptacles are grouped on one single rack of such design as may be required by the Council, with the location of such rack to be approved by the Council.

CHAPTER 136 SIDEWALK REGULATIONS

136.01	Purpose	136.13	Encroaching Steps
136.02	Definitions	136.14	Openings and Enclosures
136.03	Removal of Snow, Ice and Accumulations	136.15	Fires or Fuel On Sidewalks
136.04	Responsibility for Maintenance	136.16	Defacing
136.05	City May Order Repairs	136.17	Debris on Sidewalks
136.06	Sidewalk Construction Ordered	136.18	Merchandise Display
136.07	Permit Required	136.19	Sales Stands
136.08	Sidewalk Standards	136.20	Violations of This Chapter
136.09	Barricades and Warning Lights	136.21	New Sidewalk Standards
136.10	Failure to Repair or Barricade	136.22	Exceptions
136.11	Interference With Sidewalk Improvements	136.23	Replacement of sidewalks Removed
136.12	Awnings	136.24	Failure to Maintain-Personal Injuries

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. “Broom finish” means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. “Established grade” means that grade established by the City for the particular area in which a sidewalk is to be constructed.
3. “One-course construction” means that the full thickness of the concrete is placed at one time, using the same mixture throughout.
4. “Owner” means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, “owner” includes the lessee, if any.
5. “Portland cement” means any type of cement except bituminous cement.
6. “Sidewalk” means all permanent public walks in business, residential or suburban areas.
7. “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.
8. “Wood float finish” means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.
9. “Defective Sidewalk” shall mean any public sidewalk exhibiting one or more of the following characteristics:

- A. Vertical separation equal to three-fourths (3/4) inch or more.
- B. Horizontal separations equal three-fourths (3/4) inch or more.
- C. Holes or depressions equal to three-fourths (3/4) inch or more in width and depth.
- D. Spanning over fifty (50) percent of a single square or panel of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
- E. A single square or panel of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot or is cracked in such a manner that it constitutes a danger or a potential danger to the public.
- F. A sidewalk with any part thereof missing to the full depth.
- G. A deviation on the stacked and constructed grade equal to three-fourths (3/4) inch or more.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS.

It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE.

It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

136.05 CITY MAY ORDER REPAIRS.

If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED.

The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the *Code of Iowa*.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED.

No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work. The permit fee is waived for repair of sidewalk, reconstruction or installation.

136.08 SIDEWALK STANDARDS.

Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.
2. Construction. Sidewalks shall be of one-course construction.
3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.
4. Sidewalk Bed. The sidewalk bed shall be so graded that the constructed sidewalk will be at established grade.
5. Length, Width and Depth. Length, width and depth requirements are as follows:
 - A. Residential sidewalks shall be at least three (3) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.
 - B. Business District sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length.
 - C. Driveway areas shall be not less than six (6) inches in thickness.
 - D. It shall be at the discretion of the Council to order the width of sidewalks to be in uniformity with existing and abutting sidewalks.
6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council establishes a different distance due to special circumstances.
7. Grade. Curb tops shall be on level with the centerline of the street which shall be the established grade.
8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb at the curb or not less than one-half ($\frac{1}{2}$) inch above the curb for each foot between the curb and the sidewalk.
9. Slope. All sidewalks shall slope one-quarter ($\frac{1}{4}$) inch per foot toward the curb.
10. Finish. All sidewalks shall be finished with a "broom" or "wood float" finish.

11. Curb Ramps and Sloped Areas for Persons with Disabilities. If a street, road, or highway is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the street, road, or highway with a sidewalk or path. If a sidewalk or path is newly built or reconstructed, a curb ramp or sloped area shall be constructed or installed at each intersection of the sidewalk or path with a street, highway, or road. Curb ramps and sloped areas that are required pursuant to this subsection shall be constructed or installed in compliance with applicable Federal requirements adopted in accordance with the Federal Americans with Disabilities Act, including (but not limited to) the guidelines issued by the Federal Architectural and Transportation Barriers Compliance Board.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS.

Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE.

It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.

No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 AWNINGS.

It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

136.13 ENCROACHING STEPS.

It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.14 OPENINGS AND ENCLOSURES.

It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.
3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.15 FIRES OR FUEL ON SIDEWALKS.

It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.16 DEFACING.

It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.17 DEBRIS ON SIDEWALKS.

It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

136.18 MERCHANDISE DISPLAY.

It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.19 SALES STANDS.

It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

136.20 VIOLATIONS OF THIS CHAPTER.

Except Sections 136.15 and 136.10 and as otherwise provided, a violation of provision of this chapter shall be a municipal infraction. Violation of section 136.15 and 136.16 may be prosecuted as either a municipal infraction or under the Iowa Code in the discretion of the arresting or citing officer and as the circumstances indicate

136.21 NEW SIDEWALK STANDARDS.

The owners of a majority of linear feet of property in any block fronting on any public street, highway, avenue or court may, by petition to the Council, request a resolution approving sidewalk improvements, including specifically the development of new sidewalks where none existed prior to the effective date of this amendment, except; that the same shall not be made unless a three-fourths of all members of the Council, by recorded vote, order the making thereof. If a sidewalk improvement shall not be made, the Council may serve notice and complete such work and assess the costs against the abutting property for the collection in the same manner as a property tax or an assessment.

136.22 EXCEPTIONS.

The owner of any property who is required to make any sidewalk improvement under this ordinance may make application in writing to the Council for an exception. The Council, after public hearing and by three-fourth vote of all of its members, may grant an exception from all or any part thereof for any of the following reasons, to-wit:

- A. The property is not found to be within the City limits.
- B. The property adjoins other property not within the City limits so that the proposed sidewalk will not directly lead to any other point, within the City limits off the owner's property.
- C. Any other reason the Council may determine appropriate under the circumstances.

136.23 REPLACEMENT OF SIDEWALKS REMOVED.

Sidewalks in existence at the time of the adoption of the amendments to the sidewalk regulation on Sept 2, 1997, and removed on or after said date shall be replaced by sidewalks which shall comply in all respects with the standards required by the Sidewalk Regulation Ordinance for new sidewalks and the replacement shall be completed on or before the 1st day of October after removal, and, if not replaced by said date, the City may cause the replacement to be made and assess the cost thereof against the abutting property for the collection of said costs in the same manner as a property tax or an assessment.

136.24 FAILURE TO MAINTAIN-PERSONAL INJURIES.

If the abutting property owner does not maintain 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 the alleged facts from which the cause arose, that the city believes that the person notified in

liable to it for any judgment obtained in the suit is conclusive in any Action by the city against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the city to the plaintiff in the first named action, and as to the amount of the damage or injury. The city maintains an action against the person notified to recover the amount of the judgement together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

CHAPTER 137 - VACATION AND DISPOSAL OF STREETS

137.01 Power to Vacate

137.02 Planning and Zoning Commission

137.03 Notice of Vacation Hearing

137.04 Findings Required

137.05 Disposal of Vacated Streets or Alleys

137.06 Disposal by Gift Limited

137.01 POWER TO VACATE.

When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

137.02 PLANNING AND ZONING COMMISSION.

Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

137.03 NOTICE OF VACATION HEARING.

The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

137.04 FINDINGS REQUIRED.

No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. **Public Use.** The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. **Abutting Property.** The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

137.05 DISPOSAL OF VACATED STREETS OR ALLEYS.

When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

137.06 DISPOSAL BY GIFT LIMITED.

The City may not dispose of real property by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7[3])

EDITOR'S NOTE			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED

CHAPTER 138 - STREET GRADES

138.01 Established Grades

138.02 Record Maintained

138.01 ESTABLISHED GRADES.

The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

138.02 RECORD MAINTAINED.

The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE			
The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.			
ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED

CHAPTER 139 – NAMING STREETS

139.01 Naming New Streets.

139.04 Official Street Name Map.

139.02 Changing Name of Street.

139.05 Revision of Street Name Map.

139.03 Recording Street Names.

139.01 NAMING NEW STREETS.

New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.
2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.
3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

139.02 CHANGING NAME OF STREET.

The Council may, by resolution, change the name of a street.

139.03 RECORDING STREET NAMES.

The council may by ordinance change the name of a street. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26 & 592.26)

139.04 OFFICIAL STREET NAME MAP.

Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 139.04 of the Code of Ordinances of Sutherland, Iowa."

139.05 REVISION OF STREET NAME MAP.

If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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BUILDING AND PROPERTY REGULATIONS

CHAPTER 145 - DANGEROUS BUILDINGS

145.01 Enforcement Officer

145.02 General Definition of Unsafe

145.03 Unsafe Building

145.04 Notice to Owner

145.05 Conduct of Hearing

145.06 Posting of Signs

145.07 Right to Demolish

145.08 Costs

145.09 Emergency Abatement Of Dangerous Building

145.01 ENFORCEMENT OFFICER.

The Mayor is responsible for the enforcement of this chapter.

145.02 GENERAL DEFINITION OF UNSAFE.

All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.

(Code of Iowa, Sec. 657A.1 & 364.12[3a])

145.03 UNSAFE BUILDING.

"Unsafe building" means any structure or mobile home meeting any or all of the following criteria:

1. Various Inadequacies. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
2. Manifestly Unsafe. Whenever, for any reason, the building or structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.
3. Inadequate Maintenance. Whenever a building or structure, used or intended to be used for dwelling purposes, because of dilapidation, decay, damage, faulty construction, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that it is likely to cause sickness or disease.
4. Fire Hazard. Whenever any building or structure, because of dilapidated condition, deterioration, damage, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
5. Abandoned. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six (6) months so as to constitute such building or portion thereof an attractive nuisance or hazard to the public.

6. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.

7. 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.

8. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance including lack of paint so as to expose wood to rotting, 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 condition that is likely to cause sickness or disease.

9. 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.

145.04 NOTICE TO OWNER.

The enforcement officer shall examine or cause to be examined every building or structure or portion thereof reported as dangerous or damaged and, if such is found to be an unsafe building as defined in this chapter, the enforcement officer shall give to the owner of such building or structure written notice stating the defects thereof. This notice may require the owner or person in charge of the building or premises, within forty-eight (48) hours or such reasonable time as the circumstances require, to commence either the required repairs or improvements or demolition and removal of the building or structure or portions thereof, and all such work shall be completed within ninety (90) days from date of notice, unless otherwise stipulated by the enforcement officer. If necessary, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the required repairs and improvements are completed, inspected and approved by the enforcement officer.

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

1. Notice Served. Such notice shall be served by sending by certified mail to the owner of record, according to Section 364.12[3h] of the Code of Iowa, if the owner is found within the City limits. If the owner is not found within the City limits such service may be made upon the owner by registered mail or certified mail. The designated period within which said owner or person in charge is required to comply with the order of the enforcement officer shall begin as of the date of the notice.

2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the Council on the notice by filing a written request for hearing within the time provided in the notice.

145.05 CONDUCT OF HEARING.

If requested, the Council shall conduct a hearing in accordance with the following:

1. Notice. The owner shall be served with written notice specifying the date, time and place of hearing.

2. Owner's Rights. At the hearing, the owner may appear and show cause why the alleged nuisance shall not be abated.
3. Determination. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

145.06 POSTING OF SIGNS.

The enforcement officer shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. CITY OF SUTHERLAND, IOWA." Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the enforcement officer and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building. ?

145.07 RIGHT TO DEMOLISH.

In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the enforcement officer to proceed with the work specified in such notice. A statement of the cost of such work shall be transmitted to the Council.

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

145.08 COSTS.

Costs incurred under Section 145.07 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

145.09 EMERGENCY ABATEMENT OF DANGEROUS BUILDING.

In an emergency a city may perform any action which may be required under this Chapter without prior notice, and assess the costs as provided in this Chapter, after notice to the property owner and hearing.

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

EDITOR'S NOTE: Suggested forms of notice and of a resolution and order of the Council for the administration of this chapter are provided in the APPENDIX to this Code of Ordinances. Caution is urged in the use of this procedure. We recommend you review the situation with your attorney before initiating procedures and follow his or her recommendation carefully.

CHAPTER 146 -FIRE ZONE

146.01 Fire Zone Established

146.02 Plans Submitted

146.03 Buildings Prohibited

146.04 Construction Standards

146.05 Reconstruction Prohibited

146.06 Special Permit

146.07 Removal of Buildings

146.08 Storage of Materials Restricted

146.01 FIRE ZONE ESTABLISHED.

A Fire Zone is established to include all of the following territory:

Any area of the City zoned BC

146.02 PLANS SUBMITTED.

It is unlawful to build, enlarge or alter any structure, building or part thereof, within the Fire Zone until a plan of the proposed work, together with a statement of materials to be used has been submitted to the Council, who shall, if in accordance with the provisions of this chapter, issue a permit for the proposed work.

146.03 BUILDINGS PROHIBITED.

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

146.04 CONSTRUCTION STANDARDS.

The construction standards for all buildings, structures, or parts thereof within the Fire Zone shall be of Type 1, Type II, or, at a minimum, Type III - 1 hour fire resistant - construction, as specified in the Uniform Building Code, most current edition.

146.05 RECONSTRUCTION PROHIBITED.

Any building within the Fire Zone not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, shall not be rebuilt, altered, or reconstructed except in accordance with the provisions of this chapter.

146.06 SPECIAL PERMIT.

The Council may, by four-fifths (4/5) vote, issue a special permit to improve any property within the Fire Zone contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard potential of the area, or to allow any person to erect or move in any building or structure for temporary purposes for a period of time not exceeding six (6) months from the date of such permission.

146.07 REMOVAL OF BUILDINGS.

Any person who erects any building in the Fire Zone, contrary to the provisions of this chapter, shall be given written notice by the Mayor to remove or tear down the same, and if such removal or taking down is not completed within thirty (30) days from the time of the service of such notice, the Mayor shall cause the same to be removed or taken down. The Mayor shall report an itemized bill of the expense to the Clerk, and the same shall be charged to the person owning such building. The Clerk shall present the bill to the owner of the property and if the bill is not paid within ten (10) days from the date it is presented, the amount of the bill shall be certified, by the Clerk, to the County Treasurer, as a lien against the property and collected the same as other taxes.

146.08 STORAGE OF MATERIALS RESTRICTED.

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

CHAPTER 147- WATER WELL PROTECTION

147.01 Definitions

147.02 Shallow Well Protection

147.03 Deep Well Protection

147.04 Nonconforming Uses

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

1. "Deep public well" means a public well located and constructed in such a manner that there is a continuous layer of low permeability soil or rock at least five (5) feet thick located at least twenty-five (25) feet below the normal ground surface and above the aquifer from which the water is drawn.
2. "Shallow public well" means a public well located and constructed in such a manner that there is not a continuous layer of low permeability soil or rock at least five (5) feet thick located at least twenty-five (25) feet below the normal ground surface and above the aquifer from which the water is drawn.

147.02 SHALLOW WELL PROTECTION.

No structure or facility of the following enumerated and listed types shall be located within the distances hereinafter set forth after each structure or facility from a shallow public well within the City.

1. Well house floor drains — 5 feet;
2. Water treatment plant wastes — 50 feet;
3. Sanitary and industrial discharges — 400 feet;
4. Floor drains from pump house to surface:
 - A. None within 5 feet;
 - B. 5 to 10 feet — water main materials enclosed in concrete permitted;
 - C. 10 to 25 feet — must be water main material;
 - D. 25 to 75 feet — must be watertight sewer pipe;
5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:
 - A. None permitted within 25 feet;
 - B. 25 to 75 feet, must be water main material;
 - C. 75 to 200 feet, must be watertight sewer pipe;
6. Force mains:
 - A. None permitted within 75 feet;
 - B. 75 to 400 feet, must be water main materials;

7. Land application of solid waste — 200 feet;
8. Irrigation of wastewater — 200 feet;
9. Concrete vaults and septic tanks — 200 feet;
10. Mechanical wastewater treatment plants — 400 feet;
11. Cesspools and earth pit privies — 400 feet;
12. Soil absorption fields — 400 feet;
13. Lagoons — 1,000 feet;
14. Chemicals:
 - A. Application to ground surface — 200 feet;
 - B. Above ground storage — 200 feet;
 - C. On or underground storage — 400 feet;
15. Animal pasturage — 50 feet;
16. Animal enclosure — 200 feet;
17. Animal wastes:
 - A. Land application of solids — 200 feet;
 - B. Land application of liquid or slurry — 200 feet;
 - C. Storage tank — 200 feet;
 - D. Solids stockpile — 400 feet;
 - E. Storage basin or lagoon — 1,000 feet;
18. Earthen silage storage trench or pit — 200 feet;
19. Basements, pits, sumps — 10 feet;
20. Flowing streams or other surface water bodies — 50 feet;
21. Cisterns — 100 feet;
22. Cemeteries — 200 feet;
23. Private wells — 400 feet;
24. Solid waste disposal sites — 1,000 feet.

147.03 DEEP WELL PROTECTION.

No structure or facility of the following enumerated and listed types shall be located within the distances hereinafter set forth from a deep public well within the City.

1. Well house floor drains – 5 feet;
2. Water treatment plant – 50 feet;
3. Sanitary and industrial discharges – 400 feet
4. Floor drains from pump house to surface:
 - A. None within 5 feet;
 - B. 5 to 10 feet — water main materials enclosed in concrete permitted;
 - C. 10 to 25 feet — must be water main material;
 - D. 25 to 75 feet — must be watertight sewer pipe;
5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains:
 - A. None permitted within 25 feet;
 - B. 25 to 75 feet, must be water main material;
 - C. 75 to 200 feet, must be watertight sewer pipe;
6. Force mains:
 - A. None permitted within 75 feet;
 - B. 75 to 400 feet, must be water main materials;
7. Land application of solid waste — 100 feet;
8. Irrigation of wastewater — 100 feet;
9. Concrete vaults and septic tanks — 100 feet;
10. Mechanical wastewater treatment plants — 200 feet;
11. Cesspools and earth pit privies — 200 feet;
12. Soil absorption fields — 200 feet;
13. Lagoons — 400 feet;
14. Chemicals:

- A. Application to ground surface — 100 feet;
 - B. Above ground storage — 100 feet;
 - C. On or underground storage — 200 feet;
15. Animal pasturage — 50 feet;
16. Animal enclosure — 100 feet;
17. Animal wastes:
- A. Land application of solids — 100 feet;
 - B. Land application of liquid or slurry — 100 feet;
 - C. Storage tank — 100 feet;
 - D. Solids stockpile — 200 feet;
 - E. Storage basin or lagoon — 400 feet;
18. Earthen silage storage trench or pit — 100 feet;
19. Basements, pits, sumps — 10 feet;
20. Flowing streams or other surface water bodies — 50 feet;
21. Cisterns — 50 feet;
22. Cemeteries — 500 feet;
23. Private wells — 200 feet;
24. Solid waste disposal sites — 1,000 feet.

147.04 NONCONFORMING USES.

The use of structures or facilities existing as of January 16, 1991, may be continued even though such use may not conform with the regulations of this chapter, i.e., such structures or facilities may be located within the distances set forth. However, such structures or facilities not in conformance with the terms of this chapter may not be enlarged, extended, reconstructed or substituted subsequent to such date.

CHAPTER 148 - MANUFACTURED AND MOBILE HOMES

148.01 Definitions

148.03 Foundation Requirements

148.02 Conversion to Real Property

148.01 DEFINITIONS.

For use in this chapter the following terms are defined:

(Code of Iowa, Sec. 435.1)

1. "Manufactured home" means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.
2. "Manufactured home community" means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.
3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.
4. "Mobile home park" means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "manufactured home community" or "mobile home park" is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

148.02 CONVERSION TO REAL PROPERTY.

A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:

(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer's Stock. Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

148.03 FOUNDATION REQUIREMENTS.

A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

CHAPTER 150 - BUILDING NUMBERING

150.01 Definitions

150.02 Owner Requirements

150.03 Building Numbering Map

150.01 DEFINITIONS.

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

1. "Owner" means the owner of the principal building.
2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS.

Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than four (4) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING MAP.

The Clerk shall be responsible for preparing and maintaining a building numbering map.

CHAPTER 151 TREES

151.01 Definition

151.02 Restrictions

151.03 Duty To Trim Trees

151.04 Trimming Trees To Be Supervised

151.05 Disease Control

151.06 Inspection and Removal

151.01 DEFINITION.

For use in this chapter, “parking” means that part of the street, avenue, or highway in the City not covered by sidewalk and lying between the lot line and the curb line or, on unpaved streets, that part of the street, avenue, or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 RESTRICTIONS.

No trees, perennial flowers, shrubs or ornamental decorations shall be planted on any street, avenue or highway, including the parking, in the City of Sutherland, Iowa. (Excluding the Park Boulevard on Main Street from 2nd Street to 4th Street).

Ord. # 2003, approved Sept. 2, 2003 amended section 151.02 Restrictions

151.03 DUTY TO TRIM TREES.

The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least 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.

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

151.04 TRIMMING TREES TO BE SUPERVISED.

Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL.

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

See Chapter 52 Disease and Dead Tree Control

151.06 INSPECTION AND REMOVAL.

The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the conditions of Chapter 52 Disease and Dead Tree Control.

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

CHAPTER 152 – PARKING AND STORAGE OF RECREATIONAL VEHICLES

152.01 Definition.

152.02 Parking for Seasonal Use.

152.03 Storage Parking.

152.04 Registration and Licensing.

152.05 No Business Use.

152.06 Occupied Recreational Vehicles.

152.07 Exemption.

152.01 DEFINITION.

For purposes of this chapter, the term “Recreational Vehicle” includes: travel trailers, camping trailers, motor homes, converted trucks and buses, boats and boat trailers, snowmobile and motorcycle trailers and general purposes trailers (open or closed). The term “Recreational Vehicle” does not include a self-propelled motor vehicle regularly used for family or commercial transportation purposes.

152.02 PARKING FOR SEASONAL USE.

Recreational Vehicles may be parked during a season of use on a driveway, provided that the vehicle does not block or obstruct the view of vehicles entering and leaving the property or vehicles approaching a nearby intersection. Recreational Vehicles shall not be parked on the public right-of-way between 9:00 pm and 7:00 am.

152.03 STORAGE PARKING.

Recreational Vehicles which are not being regularly used or are being stored during the off season, may be stored in a side, rear yard, or in an inconspicuous location. Recreational Vehicles shall not be stored nearer than two (2) feet to any lot line.

152.04 REGISTRATION AND LICENSING.

All Recreational Vehicles which are registered with and licensed by the State of Iowa shall be kept in good repair and working condition with current license plates and registration stickers affixed. Non-operating or non-registered Recreational Vehicles stored for more than thirty (30) days shall be considered a nuisance.

152.05 NO BUSINESS USE.

Recreational Vehicles shall not be used for business purposes in any zoning district.

152.06 OCCUPIED RECREATIONAL VEHICLES.

Occupied Recreational Vehicles may be parked and occupied on private property no longer than seven (7) consecutive days at a time and no more than fourteen (14) days in the calendar year. Only one (1) occupied Recreational Vehicle and one (1) tent shall be allowed at one time on a residential lot. When Recreational Vehicles are occupied, the property owner shall notify the City Clerk or Zoning Officer of the period of occupancy. If complaints are received by the City arising from the occupancy of a Recreational Vehicle or tent, the City reserves the right to restrict occupancy of Recreational Vehicles or tents.

152.07 EXEMPTION.

Recreational Vehicles that are stored in an enclosed structure are exempt from the provisions of this chapter.