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TITLE I - MUNICIPAL GOVERNMENT, STRUCTURE AND OFFICERS

TITLE I

CHAPTER 1: GENERAL PROVISIONS

ARTICLE I - CITY CODE

- 1.01 TITLE. This code of ordinances shall be known and may be cited as the City Code of the City of Larchwood, Iowa, 1999.
- 1.02 DEFINITIONS. Terms used in this city code, unless specifically defined otherwise in another section shall have the meanings prescribed as follows:
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 Larchwood, Iowa.
 3. "City Code" or "Municipal Code" means the current Municipal Code of the City of Larchwood, Iowa.
 4. "Clerk" means the City Clerk of Larchwood, Iowa.
 5. "Code" means the specific chapter in which a specific subject is covered and bears a descriptive title word.
 6. "Council" means the City Council of Larchwood, Iowa.
 7. "County" means Lyon County, Iowa.
 8. "Measure" means an ordinance, resolution, amendment or motion.
 9. "Oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be the equivalent to the words "swear" and "sworn".
 10. "Occupant, Tenant" applied to a building or land, shall include any person who inhabits the whole or part of such building or land, whether alone or with others.
 11. "Ordinances" means the ordinances of the City of Larchwood, as incorporated by the Municipal Code, ordinances not repealed by the ordinance adopting the Municipal Code and those passed hereafter.
 12. "Parking" means that portion of the street between the edge of the surfacing or curb line and the adjacent property line.

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13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity and includes a trustee, receiver, assignee, or similar representative but does not include a governmental body.
 14. "Property" shall include real property, and tangible and intangible personal property unless clearly indicated otherwise.
 15. "Property Owner" means a person owning private property in the city as shown by the county auditor's plats of the city.
 16. "Public Place" includes but is not restricted to any city-owned space or property, either open or enclosed.
 17. "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.
 18. "Public Way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.
 19. "Sidewalk" means that portion of the street between the edges of the surfacing or curb line and the adjacent property line.
 20. "State" means the State of Iowa.
 21. "Statutes, Laws" means the latest edition of the Code of Iowa as amended.
 22. "Street" means and includes any public way, highway, street, avenue, boulevard or other public thoroughfare, and includes the entire width between property lines.
- 1.03 RULES OF CONSTRUCTION. In the construction of the City Code, the following rules shall be observed:
1. Tense: words used in the present tense include the future.
 2. May: grants a power
 3. Must: states a requirement.
 4. Shall or Will: imposes a duty
 5. Gender: masculine gender shall include the feminine and neuter genders.
 6. Interpretation: all general provisions.
 7. The singular includes the plural, and the plural includes the singular.
 8. Editor's Note: does not constitute any part of the law, and is intended merely to indicate, explain or to clarify the contents of a section.

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- 1.04 AMENDMENTS. All ordinances which amend, repeal or affect the City Code will include proper reference to title, division, chapter, article, section, and subsection to maintain an orderly classification of ordinances of the city. Any amendment of an ordinance shall include in full the language of the section, subsection, or paragraph as amended.

(Code of Iowa, Sec. 380.2)

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

- 1.06 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 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))

These penalties shall apply to every section of this Code, as if the section were set out in every other section of this Code.

- 1.07 SEVERABILITY. If any section, provision, or part of the City Code is judged invalid or unconstitutional, such judgment will not affect the validity of the City Code as a whole or any section, provision, or part not judged invalid or unconstitutional.

- 1.08 CATCHLINES AND NOTES. The catchlines of the several sections of the city code, titles, headings (chapter, division, article, section and subsection), editor's notes, cross references and state law references, unless set out in the body of the section itself, contained in the city code, do not constitute any part of the law, and are intended merely to indicate, explain, supplement or clarify the contents of a section.

- 1.09 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.

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- 1.10 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 1.08 of this chapter.
- 1.11 LIABILITY OF OFFICERS. No provision of this code designating the duties of any officer or employee of the city shall be construed to make such officer or employee liable for any fine or penalty for a failure to perform such duty, unless the intention of the council to impose such a penalty is specifically and clearly expressed in this code.
- 1.12 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.
- 1.13 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.
- 1.14 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.
- 1.15 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.

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- 1.16 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.
- 1.17 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)
- 1.18 SUFFICIENCY OF SERVICE BY CERTIFIED MAIL. Wherever notice is allowed by certified mail in this City Code, then upon proof of an addressee's refusal to accept a certified mail, service by certified mail shall be deemed satisfied and the notice shall become effective. For purposes of this section, proof of an addressee's refusal to accept a certified mail may include the return from the postal service to include any markings from the postal service demonstrating that the addressee refused the certified mail and that the same has been returned to the sender.

TITLE I

CHAPTER 1: GENERAL PROVISIONS

ARTICLE 2 - BOUNDARIES

- 2.01 CORPORATE LIMITS. The corporate limits of the City of Larchwood are described as follows:

All of Section 30, Township 100 North, Range 47 West of the 5th P.M., Lyon County, Iowa.

Emerald Park Addition, McMullens Addition and Edgewood Heights Addition to Larchwood, all in Section 29, Township 100 North, Range 47 West of the 5th P.M., Lyon County, Iowa.

An approximate metes and bounds description of the portion of the city of Larchwood, which includes the three named additions referred to above and lying in Section 29, Township 100 North, Range 47 West of the 5th P.M., is as follows:

Commencing in the middle of the intersection of County road and Geiser Street and then north approximately 165 feet to the point of beginning, thence running east along the northernmost boundary of Emerald Park Addition approximately 706 feet to the easternmost boundary of Emerald Park Addition, thence south along the easternmost boundary approximately 471 feet, then east along the northernmost boundary of Edgewood Heights addition and along Fell Street approximately 731 feet to the easternmost boundary of Edgewood Heights Addition, thence south along the easternmost boundary of Edgewood Heights addition approximately 1,421 feet to the southernmost boundary of Edgewood Heights Addition, thence west approximately 696.08 feet along the southernmost boundary of Edgewood Heights Addition to the southwest corner of Edgewood heights Addition, k thence south approximately 400 feet along the easternmost boundary of McMullens Addition to the north edge of the abandoned railroad right of way, thence northwest along the north edge of the abandoned railroad right of way to where it intersects with the east boundary line of Section 30, Township 100 North, Range 47 West, thence north on the east boundary line of Section 30, to the point of beginning, which for the most part would be down the middle of County Road, except a parcel of ground that is approximately 330 feet wide and 660 feet long which is located east of McMullens Addition and north and west of Edgewood Heights Addition, which parcel is not part of the platted City of Larchwood.

The following land was incorporated into the City's Corporate Boundaries by Ordinance on November 10, 2006:

In Re: A parcel of land located in Outlot 1 of McMullen's Addition in the Southwest Quarter (SW¼) of Section Twenty-nine (29), Township One Hundred (100)

TITLE I

North, Range Forty-Seven (47) West of the 5th P.M., Larchwood, Lyon County, Iowa as described as follows:

Commencing at the Southwest (SW) corner of the Southwest Quarter (SW $\frac{1}{4}$) of said Section Twenty-nine (29); thence North 00°00'0)" East 1625.68 feet along the West line of the Southwest Quarter (SW $\frac{1}{4}$); thence South 88°46'55" East 285.89 feet to the point of beginning; thence South 88°46'55" East 449.72 feet along the South line of South Street to the West line of Edgewood Heights Addition; thence South 00°13'10" West 95.02 feet along said West line; thence North 88°46'55" West 174.14 feet; thence South 04°04'20" West 25.00 feet; thence North 88°46'55" West 274.00 feet; thence North 00°16'08" East 120.00 feet to the point of beginning, containing 1.14 acres.

In Re: A parcel of land located in the Southwest Quarter (SW $\frac{1}{4}$) of Section Twenty-nine (29), Township One Hundred (100) North, Range Forty-Seven (47) West of the 5th P.M., Larchwood, Lyon County, Iowa as described a; follows:

Commencing at the Southwest (SW) corner of the Southwest Quarter (SW $\frac{1}{4}$) of said Section Twenty-nine (29); thence North 00°00'00" East 1166.53 feet along the West line of the Southwest Quarter (SW $\frac{1}{4}$); thence South 68°41'22" East 127.75 feet to the point of beginning; thence South 68°41'22" East 223.47 feet; thence South 61°09'35" East 104.46 feet; thence North 29°53'44" East 153.08 feet; thence Southeasterly 23.27 feet along a 3,064.90 foot radius curve concave southerly with a chord of South 63°01'54" East 23.27 feet; thence North 27°11'09" East 195.00 feet; thence South 62°04'50" East 146.10 feet; thence North 00°13'10" East 299.31 feet to the Southeast corner of Southview First Addition; thence North 88°46'55" West 174.14 feet; thence South 04°04'20" West 25.00 feet; thence North 88°46'55" West 274.00 feet; thence North 88°45'09" West 205.34 feet to the East right of way line of Iowa Highway No. 9; thence South 02°42'56" East 108.89 feet along said East line; thence South 04°36'42" East 186.60 feet along said East line; thence South 11°57'00" East 91.19 feet along said. East line to the point of beginning, containing 5.63 acres.

In Re: A parcel of land located in the Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty-nine (29), Township One Hundred (100) North, Range Forty-seven (47) West of the 5th P.M., Lyon County, Iowa, described as fellows:

Commencing at the Southwest corner of he NW $\frac{1}{4}$ of Said Section 29; thence North 89°17'04" East 710.74 feet along the South line of the NW $\frac{1}{4}$; to the point of beginning; thence North 01°02'04" West 494.94 feet; thence North 89°17'04" East 755.66 feet; thence North 00°42'56" West 48.07 feet; thence North 89°17'04" East 502.68 feet; thence South 89°17'04" West 1253.93 feet containing 14.86 acres.

In Re: A parcel of land located in the Northwest Quarter (NW $\frac{1}{4}$) of Section Twenty-Nine (29), Township 100 North, Range 47 West of the 5th P.M., Lyon County, Iowa

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described as follows:

Commencing at the Southwest Corner of the NW $\frac{1}{4}$ of Said Section 29; thence North 89°17'04" East 710.74 Feet along the South Line of the NW $\frac{1}{4}$ to the point of beginning; thence North 01°02'04" West 494.94 Feet; thence South 89°16'39" West 711.02 Feet to the West Line of the NW $\frac{1}{4}$; thence North 01°03'59" West 727.10 Feet along said West Line; Thence North 89°17'04" East 1969.63 Feet; thence South 01°04'07" East 1221.96 Feet to the South Line of the NW $\frac{1}{4}$; thence South 89°17'04" West 1258.93 Feet to the Point of Beginning, containing 47.18Acres

EXCEPTINGTHEREFROM

Zuraff First Addition to the City of Larchwood, Lyon County, Iowa, which is more particularly described as follows: Commencing at the Southwest Corner of the NW $\frac{1}{4}$ of Section 29, Township 100 North, Range 47 West of the 5th P.M., Lyon County, Iowa; thence North 89°17'04" East 710.74 Feet along the South Line of the NW $\frac{1}{4}$ to the point of beginning; thence North 01°02'04" West 494.94 Feet; thence North 89°17'04" East 755.66 Feet; thence North 00°42'56" West 48.07 Feet; thence North 89°17'04" East 502.68 Feet; thence South 01°04'07" East 543.01 Feet to the South Line of the NW $\frac{1}{4}$; thence South 89°17'04" West 1258.93 Feet to the Point of Beginning, containing 14.86 Acres.

BUT INCLUDING

Lot Twelve (12), Lot Thirteen (13), Lot Fourteen (14), Lot Fifteen (15) and Lot Twenty (20) of Zuraff First Addition to the Town (now City) of Larchwood, Lyon County, Iowa

TITLE I

CHAPTER 1: GENERAL PROVISIONS

ARTICLE 3 - CHARTER

- 3.01 PURPOSE. The purpose of this article is to provide for a Charter incorporating the form of government existing in the City of Larchwood, Iowa.
- 3.02 CHARTER. This article may be referred to as the Charter of the City of Larchwood, Iowa.
- 3.03 FORM OF GOVERNMENT. The form of government of the City of Larchwood, Iowa, is the mayor-council form of government.
(Code of Iowa, Sec. 372.4)
- 3.04 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 of Larchwood, Iowa.
- 3.05 NUMBER AND TERM OF COUNCIL. The council consists of five (5) council members elected at large, elected for terms of four (4) years.
(Code of Iowa, Sec. 372.4)
- 3.06 TERM OF MAYOR. The mayor is elected for a term of two years.
(Code of Iowa, Sec. 376.2)
- 3.07 COPIES ON FILE. The clerk shall keep an official copy of the charter on file with the official records of the city clerk, and shall keep copies of the charter available at the clerk's office for public inspection.
(Code of Iowa, Sec. 372.1)

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CHAPTER 1: GENERAL PROVISIONS

ARTICLE 4 - ELECTIONS

- 4.01 MUNICIPAL ELECTION. The regular municipal election shall be held on the first Tuesday following the first Monday of November of each odd-numbered year.
(Code of Iowa, Sec. 376.1)
- 4.02 TERMS. Terms of elected officers begin at noon on the first day in January which is not a Sunday or a legal holiday following their election.
(Code of Iowa, Sec. 376.2)
- 4.03 NOMINATIONS. Candidates for elective city offices shall be nominated as provided in Sections 376.4 to 376.9 and Chapter 45 of the Code of Iowa.
(Code of Iowa, Sec. 376.3)
- 4.04 PERSONS ELECTED IN CITY ELECTIONS.
(Code of Iowa, Sec. 376.8)
1. 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 of the Code of Iowa, 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
- 4.05 TIE VOTE. In case of a tie vote resulting in failure of one candidate to receive a majority vote, the tie shall be determined by lot by the Board of Canvassers.
(Code of Iowa, Sec. 43.75)
- 4.06 CONTEST. A nomination or election to an office may be contested as provided in the Code of Iowa, except the Statement of Intent to Contest must be filed with the city clerk within ten (10) days after the nomination or election. At the trial of nomination or election, the mayor is presiding officer except when the mayor's nomination or election is contested, in which case the council shall elect one of its members to serve as presiding officer.
(Code of Iowa, Sec. 376.10)
- 4.07 OATHS. Each officer, elective, or appointive, before entering upon his duties, shall qualify by taking the prescribed oath and giving a bond when required before noon of the second secular day in January of the first year of the term of which such officers was elected.
(Code of Iowa, Sec. 63.1)

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1. PRESCRIBED OATH: 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 Larchwood, Iowa, as now or hereinafter required by law.
(Code of Iowa, Sec. 63.10)
2. 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. Clerk,
 - C. Mayor Pro Tem
 - D. Members of all boards, commissions, or bodies created by law.
(Code of Iowa, Sec. 63A.2)

4.08 SURETY BONDS. The following shall apply to surety bonds of municipal officers:

1. CONDITIONS. All city officers and employees, except as otherwise provided, shall be bonded under a blanket bond in accordance with the conditions stated in the Code of Iowa.
(Code of Iowa, Sec. 64.2)
2. BOND NOT REQUIRED. Bonds shall not be required of council members.
(Code of Iowa, Sec. 64.1)
3. REQUIRED. The Council shall provide by resolution for a surety bond or blanket position bond running the City and covering the Mayor, Clerk, Treasurer and such officers and employees as may be necessary and advisable.
(Code of Iowa, Sec. 64.13)
4. BOND APPROVED. Bonds shall be approved by the Council.
(Code of Iowa, Sec. 64.19)
5. BONDS FILED. All bonds, after approval and proper record, shall be filed with the Clerk.
(Code of Iowa, Sec. 64.23[6])
6. 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 and appointive.
(Code of Iowa, Sec. 64.24[3])

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4.09 UNAVOIDABLE CASUALTY. When on account of sickness, inclement weather, or unavoidable absence or casualty an officer has been prevented from qualifying within the prescribed time, the officer may do so within ten (10) days after that fixed time.

(Code of Iowa, Sec. 63.3)

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

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

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

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

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

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

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CHAPTER 1: GENERAL PROVISIONS

ARTICLE 5 - OFFICERS AND EMPLOYEES

- 5.01 GENERAL DUTIES. Each municipal officer shall exercise the powers and perform the duties prescribed by law and ordinance, or as otherwise directed by the council, unless contrary to State law or City charter.
(Code of Iowa, Sec. 372.13(4))
- 5.02 OFFICERS TO BE APPOINTED. The following appointments shall be made:
1. CLERK. The council shall appoint a city clerk to perform duties prescribed by State or City law.
(Code of Iowa, Sec. 372.13(4))
 2. TREASURER. The council shall appoint a treasurer to perform duties prescribed by State or City law.
 3. MAYOR PRO TEM. The mayor shall appoint a council member as mayor pro tem.
(Code of Iowa, Sec. 372.4)
 4. OTHER OFFICERS AND EMPLOYEES. The council may appoint other city officers and employees and prescribe their powers, duties, compensation, and terms unless provided otherwise by law.
(Code of Iowa, Sec. 372.13(4) & 372.4)
 5. CITY ATTORNEY. The council shall appoint a city attorney to perform as prescribed by State or City law.
 6. COUNCIL STANDING COMMITTEES. The mayor shall appoint members to council standing committees.
- 5.03 BOOKS AND RECORDS. The public has the right, upon request, to examine, copy, or publish all books and records required to be kept by law or ordinance, unless the records are required to be kept confidential or this right is limited by other provisions in the Code of Iowa.
(Code of Iowa, Sec. 22.7)
- 5.04 TRANSFER OF RECORDS AND PROPERTY TO SUCCESSOR. Each officer shall transfer to his successor in office all books, papers, records, documents and property in his possession pertaining to his office.

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- 5.05 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 his city, unless expressly permitted by law. A contract entered into in violation of this section is void .

A measure voted upon is not invalid by reason of conflict of interest in an officer of a city, unless the vote of the officer was decisive to passage of the measure. If a specific majority or unanimous vote of a municipal body is required by statute, the majority or vote must be computed on the basis of the number of officers not disqualified by reason of conflict of interest. However, a majority of all members is required for a quorum. For the purposes of this section, the statement of an officer that the officer declines to vote by reason of conflict of interest is conclusive and must be entered of record.

(Code of Iowa, Sec. 362.5 & 362.6)

- 5.06 RESIGNATIONS. Resignations may be made by all council members and officers to the clerk or mayor.

(Code of Iowa, Sec. 69.4(5))

- 5.07 NON-ELIGIBILITY FOR REAPPOINTMENT. 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 for the office has been increased.

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

- 5.08 VACANCIES. A vacancy in an elective office during a term of office shall be filled by the council within forty (40) days after the vacancy occurs, or as otherwise provided by law.

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

- 5.09 REMOVAL OF APPOINTED OFFICERS. Except as otherwise provided by law, all persons appointed to city office may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed with the clerk and a copy shall be sent by certified mail to the person removed. Upon request filed with the clerk within thirty (30) days of the date of mailing the copy, the removed person 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 of the date the request is filed, unless the person removed requests a later date.

(Code of Iowa, Sec. 372.15)

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5.10 POSITIONS COMBINED. The powers and duties of an appointed office or employment may be delegated to any other officer or employee or may be combined with each or any other office or position by resolution passed by a majority vote of the entire council.

(Code of Iowa, Sec. 63.3)

5.11 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.

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- 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 as permitted under Section 21.5 Code of Iowa.
- 5.12 CONFLICT OF INTEREST. A City officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the City, unless expressly permitted by law. A contract entered into in violation of this section is void.

A measure voted upon is not invalid by reason of a conflict of interest in a member of the council, unless the vote of the member of the council was decisive to passage of the measure. The vote must be computed on the basis of the number of members not disqualified by reason of conflict of interest. If a specific majority or unanimous vote of a municipal body is required by statute, the majority or vote must be computed on the basis of the number of officers not disqualified by reason

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of conflict of interest. However, a majority of all members is required for a quorum. For the purpose of this section, the statement of a council member that the council member declines to vote by reason of conflict of interest is conclusive and must be entered of record.

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 contract is for professional services not customarily awarded by competitive bid, if the remuneration of employment will not be directly affected as a result of the contract, and if the duties of employment do not directly involve the procurement or preparation of any part of the contract.

(Code of Iowa, Sec. 362.5(5))

5. Newspaper. The designation of an official newspaper.

(Code of Iowa, Sec. 362.([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))

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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 Benefiting. Contracts not otherwise permitted by this section, for the purchase of goods or services by a city having a population of more than two thousand five hundred, which benefit a city officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of one thousand five hundred dollars in a fiscal year.

(Code of Iowa, Sec. 362.5(10))

11. Cumulative Purchases. Contracts not otherwise permitted by this section for the purchase of goods or services by a city having a population of two thousand five hundred or less, which benefit a city officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of two thousand five hundred dollars in a fiscal year.

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

12. 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))

- 5.13 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)

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5.14 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.

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

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CHAPTER 2: ADMINISTRATIVE CODE - EXECUTIVE

ARTICLE 6 - MAYOR

6.01 TERM OF OFFICE. The mayor is elected for a term of two years.
(Code of Iowa, Sec. 376.2)

6.02 POWERS AND DUTIES. The powers and duties of the mayor shall be as follows:
(Code of Iowa, Sec. 372.14)

1. **SUPERVISE DEPARTMENT HEADS.** Supervise and give direction to all city department heads concerning departmental functions. The Mayor may examine all department functions and records and 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. The Mayor may call special meetings of the council when necessary to the interests of the city.
(Code of Iowa, Sec. 372.14(1)& (3))
3. **ACTION ON ORDINANCE.** May sign, veto, or take no action on an ordinance, amendment, or resolution passed by the council. The Mayor must provide a written explanation for a veto on an ordinance, amendment or resolution.
(Code of Iowa, Sec. 380.5 & 380.6(2))
4. **REPORTS.** Make oral and written reports to the council at the first meeting of every month which concern municipal affairs, department, and recommendations suitable for council action.
5. **CONTRACTS.** Sign all contracts on behalf of the city when authorized by the council.
6. **REPRESENT CITY.** Represent the city in all negotiations legally entered, unless this duty is otherwise delegated by law or ordinance.
7. **SECURE SERVICES.** Secure special or professional services not available to the city, upon order of the council.
8. **LICENSES AND PERMITS:** Shall sign all licenses and permits which have been granted by the council, except those designated by law or ordinance to be issued by another municipal officer.

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9. **AUTHORIZE LICENSES AND PERMITS.** Under council authorization, sign all licenses or permits, except those designated by law or ordinance to be issued by another municipal officer, or revoke permits or licenses granted by the council when their terms, the city ordinances, or the State laws are violated by the holders of the permits or licenses.
 10. **MAYOR PRO TEM.** Designate one member of the council as mayor pro-tem.
 11. **ABSENTEE OFFICER.** Provide that the duties of an absentee officer are carried on during the officer's absence.
 12. **REMOVE NUISANCES.** Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.
 13. **PROCLAMATION OF EMERGENCY.** Have the authority to take command of the police and govern the City by proclamation, upon making a determination that the time of emergency or public danger exists. Within the City limits the, the mayor has all the powers conferred upon the Sheriff to suppress disorders.
(Code of Iowa, Sec. 372.14(2))
 14. **SPECIAL MEETING.** 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))
- 6.02 **VOTING.** The mayor is not a member of the council and may not vote as a member of the council.
(Code of Iowa, Sec. 372.4)
- 6.03 **COMPENSATION.** The salary of the mayor is set by ordinance and shall be four hundred dollars (\$400.00) per month. Special or additional meetings attended shall be seventy-five dollars (\$75.00) per meeting.
(Code of Iowa 372.13(8))
- (Editor's Note: Section 6.03 Mayor's Compensation was amended by Ordinance No. 2014-1 on October 7, 2013)
- 6.04 **APPOINTMENTS.** The mayor shall appoint the following officials:
(Code of Iowa, Sec. 372.4)
1. Mayor Pro Tem.
 2. Library Board of Trustees with Council approval.
 3. City Department Heads with Council Approval.

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4. Police Officers. If the City does not contract for law enforcement protection and services and establishes a police department then the mayor has the authority to appoint police officers.

6.05 GENDER BALANCE. All appointive boards, commissions, committees and councils of the state established by the Code if not otherwise provided by law shall be gender balanced. No person shall be appointed or reappointed to any board, commission, committee, or council established by the Code 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, committee, or council plus one if the board, commission, committee, or council is composed of an odd number of members. If the board, commission, committee, or council 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, committee, or council, they shall consult each other to avoid a violation of this section.

All appointive boards, commissions, committees, and councils of a political subdivision of the state that are established by the Code, if not otherwise provided by law, shall be gender balanced as provided by subsection 1 unless the political subdivision has made a good faith effort to appoint a qualified person to fill a vacancy on a board, commission, committee, or council in compliance with subsection 1 for a period of three months but has been unable to make a compliant appointment. In complying with the requirements of this subsection, political subdivisions shall utilize a fair and unbiased method of selecting the best qualified applicants. This subsection 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.

APPLICABILITY. This ordinance is applicable to appointive boards, commissions, committees, and councils of a political subdivision of the state on and after January 1, 2012.

(Code of Iowa, Sec. 69.16A)

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CHAPTER 2: ADMINISTRATIVE CODE - EXECUTIVE

ARTICLE 7 - MAYOR PRO TEM

7.01 POWERS AND DUTIES. The duties of the mayor pro tem shall be as follows:
(Code of Iowa, Sec. 372.14(3))

1. VICE-PRESIDENT. Serve as vice-president of the council.
2. PERFORM IN MAYOR'S ABSENCE. Perform the duties of the mayor in case of absence or inability of the mayor to perform his duties.
3. LIMITED POWER. Shall not have power to employ or discharge officers or employees that the mayor has the power to appoint, employ, or discharge without approval of the council.
4. VOTING. May vote as a member of the council.

7.02 COMPENSATION. If the mayor pro tem performs the duties of the mayor during his absence or disability for a continuous period of fifteen (15) days or more, the mayor pro tem shall be paid for that period such compensation as determined by the council, based upon his performance of the mayor's duties and upon the compensation of the mayor.
(Code of Iowa, Sec. 372.13(8))

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CHAPTER 3: ADMINISTRATIVE CODE - LEGISLATIVE

ARTICLE 8 - COUNCIL

8.01 POWERS AND DUTIES. The powers and duties of the council shall be as follows:

1. GENERAL. All powers of the city are vested in the council unless otherwise provided by law or ordinance
(Code of Iowa, Sec. 364.2(1))
2. FUNDS. Apportion and appropriate all funds, and audit and allow all bills, accounts, payrolls and claims, and order payment thereof. The Council makes all assessments for the cost of street improvements, sidewalks, sewers and other work, improvement or repairs may be specially assessed.
(Code of Iowa, Sec. 384.2 (1), 384.16 & 384.38(1))
3. PUBLIC IMPROVEMENTS. Make all orders for the doing of public improvements, and award contracts for construction of any public improvements.
4. CONTRACTS. Make or authorize all contracts. No contract shall bind or obligate the city unless approved by the council. All contracts shall be in writing. Contracts to be approved by resolution shall be drawn or approved by the city attorney before they are entered into. Any contracts based upon bidding require bidding according to the Code of Iowa requirements
(Code of Iowa, Sec. 384.95-384.102)
5. OFFICERS AND EMPLOYEES. Appoint and remove city officers and employees unless otherwise provided by law or ordinance, and prescribe their powers, duties, compensation and terms of employment.
(Code of Iowa, Sec. 372.13(4&8))
6. PRESCRIBE COMPENSATION. 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 an ordinance changing the compensation of the mayor, council members, or other elected officers 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. By resolution the council shall prescribe the compensation of appointed city officers and

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employees.

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

8.02 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:

1. APPROVED ACTION BY COUNCIL. Passage of an ordinance, amendment, or resolution requires an affirmative vote of not less than a majority of all the council members. A resolution must be adopted 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, and requires an affirmative vote of not less than a majority of all the council members. Each councilperson's vote on an ordinance, amendment, or resolution must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

As used in this chapter, "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.

A measure voted upon is not invalid by reason of a conflict of interest in a member of the council, unless the vote of the member of the council was decisive to passage of the measure. The vote must be computed on the basis of the number of members not disqualified by reason of conflict of interest. However, a majority of all members is required for a quorum. For the purpose of this section, the statement of a council member that the council member declines to vote by reason of conflict of interest is conclusive and must be entered of record.

(Code of Iowa, Sec. 380.4)

2. OVERRIDING MAYOR'S VETO. Within thirty (30) days after the mayor's veto, the council may repass the ordinance or resolution by a vote of not less than two-thirds (2/3) of the council members; and the ordinance or resolution becomes effective upon repassage and publication.

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

3. MEASURES BECOME EFFECTIVE. Measures passed by the council, other than motions, become effective in one of the following ways:

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

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

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- b. If the mayor vetoes a measure and the council repasses the same measure after the mayor's veto, a resolution becomes effective immediately upon repassage; and an ordinance or amendment becomes a law when published, unless a subsequent effective date is provided within the measure.

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

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

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

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

(Code of Iowa, Sec. 380.6)

8.03 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 three council members; the first named shall be chairman. The mayor shall name the chairman of special committees and such other members as the Mayor deems appropriate. 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.

8.04 MEETINGS. Meetings of the council shall be as follows:

1. REGULAR MEETINGS. The regular meetings of the council shall be held on the second Monday of each month at 5:30 p.m. in the Council Chambers, City Hall. If that first Monday falls on a holiday, then the meeting will be held that following Tuesday at 6:30 p.m.
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. 21.4)
3. OPEN MEETINGS. All meetings of the council, standing committees and city boards or commissions, or special committees shall comply with the

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open meeting laws of Iowa.

4. **QUORUM.** A simple majority of all council members is a quorum.
(Code of Iowa, Sec. 372.13(1))
 5. **RULES OF PROCEDURE.** The council shall determine the rules of its own proceedings by resolution, and the clerk shall keep such rules on file for public inspection.
(Code of Iowa, Sec. 372.13(5))
- 8.05 **APPOINTMENTS.** The council shall appoint the following officials and prescribe their powers, duties, compensation and term of office:
1. City Clerk/Treasurer.
 2. City Attorney.
 3. Board of Adjustment.
 4. Planning and Zoning Commission.
- 8.06 **ELIGIBILITY FOR APPOINTMENT.** A councilperson 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 the councilperson is elected.
(Code of Iowa, Sec. 372.13(9))
- 8.07 **COMPENSATION.** The salary of each council member shall be set by ordinance. The salary of each council member shall be seventy-five dollars (\$75.00) for each official council meeting attended.
(Code of Iowa, Sec. 372.13(8))
- (Editor's Note: Section 8.07 Council's Compensation was amended by Ordinance No. 56 on May 7, 2008)
- 8.08 **TENTATIVE AGENDA.** The clerk shall prepare and post a tentative agenda for each meeting at a place, or places, designated by the council, one of which shall be near the place of meeting at the city hall. The posting shall be made at least twenty-four (24) hours before the meeting except as permitted under state law in case of emergencies.
- 8.09 **SERVING AS CHIEF OF VOLUNTEER FIRE DEPARTMENT.** If volunteer fire department for the City serves an area with a population of not more than two thousand (2,000) then a council member may also hold the office of chief of the volunteer fire department, provided that no other person who is not a council member is available to hold such office.
(Code of Iowa, Sec. 372.13(10))

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CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 9 - CLERK/TREASURER

9.01 CREATION OF OFFICE. There is hereby created the office of city clerk-treasurer to be appointed by a majority of the City Council and to serve at the discretion of the City Council. The clerk-treasurer is appointed at the first meeting of January following a regular city election for a two-year term commencing on that date and continuing until a successor is appointed and qualified.

9.02 POWERS AND DUTIES. The powers and duties of the city clerk-treasurer shall be as follows:

1. **ADMINISTER OATHS.** Administer oaths of office to any city officer who is required to give an oath.
(Code of Iowa, Sec. 78.2(4))
2. **ATTEND MEETINGS.** Attend all meetings of the council and its committees.
3. **RECORD PROCEEDINGS.** Record and preserve a record of each meeting's proceedings and publish a summary of council proceedings after each regular or special meeting.
(Code of Iowa, Sec. 380.7(1))
4. **ORDINANCES.** Publish all ordinances immediately after passage and approval by council, and enter each ordinance in an ordinance record book, authenticating each ordinance and certifying as to the time and manner of publication.
(Code of Iowa, Sec. 380.7(2) & 362.3)
5. **RESOLUTIONS.** Keep an official resolution record book, and enter each resolution therein.
6. **COUNCIL COMMUNICATIONS.** Keep and date all communications and petitions directed to the council or city, and endorse thereon council action taken on matters presented in such documents.
(Code of Iowa, Sec. 372.13(4))
7. **CORPORATE SEAL.** Affix the corporate seal to those public documents or instruments as directed by the mayor or council, or as required by law.
(Code of Iowa, Sec. 380.7(3))
8. **ELECTIONS.** 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 it is timely filed. The Clerk-Treasurer shall deliver all nomination petitions

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to the county commissioner of elections no later than twelve o'clock p.m. (12:00) on the day following the last day on which nomination petitions can be filed.

(Code of Iowa, Sec. 376.4)

9. ISSUE LICENSES AND PERMITS. Issue all council-approved licenses and permits and keep a record of them showing the date, number, to whom issued and for what purpose.
10. OTHER DUTIES. Perform such other duties as specified by council resolution or ordinance.
11. RECORD & PUBLICATION OF MEETING MINUTES. Within fifteen days following a regular or special meeting of the council, the clerk shall cause the minutes of the proceedings of the council, including the total expenditure from each city fund, to be published in a newspaper of general circulation in the city. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claim. Matters discussed in closed session pursuant to section Code of Iowa 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))

9.03 CHIEF ACCOUNTING OFFICER. The clerk-treasurer shall be chief accounting officer of the city and:

1. SEPARATE ACCOUNTS. Keep separate accounts for every appropriation, department, public improvement or undertaking.
2. ACCOUNTS RECEIVED. Keep an account of any cash, investment, account receivable and property received by, due to, or in the custody of the city.
3. RECEIPT. Give a receipt for all cash or checks received, specifying the date received, from whom and or what account.
4. ACCOUNTS DISBURSED. Keep accounts for cash disbursed, purchase or contract commitments, and property disposed of or sold by the city, and record each transaction in the correct fund, specifying the date and to whom

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paid.

5. BUDGET ACCOUNTS. Maintain the budgetary accounts required by law and as directed by the council.
 6. BUDGET REPORTS. Prepare and publish all financial and budgetary reports and the list of claims, as required by law.
 7. REVENUES FROM CITY UTILITY. The gross revenues of a city utility, combined utility system, city enterprise, or combined city enterprise must be deposited promptly in the city's depository and be kept on the city books in a separate account for each and from other funds of the city.
(Code of Iowa, Sec. 384.85)
- 9.04 CUSTODY OF TREASURY. The clerk-treasurer shall have custody of the treasury and perform the following functions:
1. DEPOSITS. Deposit in banks authorized by the council any money held in his custody and belonging to the municipality in amounts not exceeding limits set by the council.
(Code of Iowa, Sec. 12 C.1)
 2. BALANCE ACCOUNTS. Reconcile the bank statements with the city books, and certify monthly to the council the balance of cash and investments and amounts received and disbursed for each fund.
 3. INVESTMENTS. Advise the council on investments, and invest city monies not immediately needed at interest in accordance with council directives and the requirements of Section 12B of the Iowa Code. The treasurer shall determine the anticipated level of bank deposits for making the depository declaration to the State Treasurer as required by Chapter 12C of the Iowa Code.
 4. PAY CLAIMS. Pay all claims against the city only upon council order or other council authorization.
 5. TREASURER. Be treasurer of all boards and commissions.
 6. AUTHENTICATE DOCUMENTS. Sign all evidences of indebtedness, coupons, or certificates as required by law.
(Code of Iowa, Sec. 380.7(3))
 7. OFFICIAL BOND. The City Clerk/Finance Officer shall carry an OFFICIAL BOND of \$25,000.

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(Editor's Note: Section 9.04 Custody of Treasurer was amended by Ordinance No. 2018-01 and created subsection 7. Official Bond)

9.05 CUSTODY OF RECORDS. The clerk-treasurer shall have custody of all records and documents pertaining to the municipality unless otherwise directed by law or ordinance and:

1. **FILE AND RECORD TRANSACTIONS.** File and preserve all receipts, vouchers, and other documents kept or required to be kept so as to prove the validity of every transaction and identity of any person having a beneficial relation thereto.
2. **DESTROY OLD RECORDS.** Maintain all City records and documents, or accurate reproductions, for at least five (5) years except that ordinances, resolutions, Council proceedings, records, documents, or accurate reproductions, relating to the issuance, cancellation, transfer, redemption, 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 or resolutions, Council proceedings, records, documents, or accurate reproductions, relating to real property shall be maintained permanently. Anything that concerns land must be kept permanently.
(Code of Iowa, Sec. 372.13(3&5))
3. **FURNISH COPIES.** Furnish, upon request, to any municipal officer a copy of any record, paper, or public document under his control when necessary to the discharge of the officer's duty. The Clerk-Treasurer shall also furnish a copy to any citizen when requested upon payment of the allowable charge set by law or Council resolution.
(Code of Iowa, Sec. 380.7(4))
4. **CERTIFY MEASURES.** Certify to the county recorder all ordinances establishing zoning district, building lines, or fire limits, and a plat showing each district, lines, or limits.
(Code of Iowa, Sec. 380.11)
5. **BONDS.** Keep a register of all bonds outstanding, and record all payments made of interest and principal.
6. **RECORD APPOINTMENTS.** Keep a record of all appointments, notifying all persons appointed by the mayor or council of such appointments and the time of taking office.
8. **ORDINANCES AND CODES.** Maintain copies of all effective City Ordinances and codes for public use.

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9. ADMINISTER OATHS. Administer oaths of office to any city officer who is required to give an oath.
(Code of Iowa, Sec. 63A.2)
 10. ISSUE LICENSE 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 issues 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.
- 9.06 PUBLICATION. The clerk-treasurer 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 municipal code 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 the city code 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))
 3. PUBLICATION OF MINUTES. Within fifteen days following a regular or special meeting of the council, the clerk shall cause the minutes of the proceedings of the council, including the total expenditure from each city fund, to be published in a newspaper of general circulation in the city. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claim. 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))

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9.07 OFFICIAL POSTING LOCATION. Whenever there is to be notice given and no other form of publication is specified by law, the following three locations are officially designated for such notices:

1. Post Office.
2. Security Savings Bank.
3. City Office Building.

9.08 COMPENSATION. The city clerk-treasurer shall be paid such compensation as specified by resolution of the council.

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

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

1. In the event of a change in the method of nomination process used by the City, certify to the 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 the 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 measures being submitted by the Council to the electorate, to the County Commissioner of Elections not later twelve o'clock (12:00) P.M. on the day following the last day on which nomination petitions can be filed.
(Code of Iowa, Sec. 376.4)

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CHAPTER 4: ADMINISTRATIVE CODE - ADMINISTRATION

ARTICLE 10 - CITY ATTORNEY

10.01 POWERS AND DUTIES. The duties of the city attorney shall be as follows:
(Code of Iowa, Sec. 372.13(4))

1. **ATTEND MEETINGS.** Attend those meetings of the council at which he or she is requested to be present.
2. **DRAFTS.** Formulate drafts for contracts, forms, and other writings which may be required for the use of the city upon request.
3. **DOCKET AND RECORD OF OPINIONS.** Keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defended by the city attorney accompanied by all proceedings related to said actions.
4. **LEGAL OPINION.** Give his or her opinion in writing upon all questions of law relating to municipal affairs submitted by the council, the mayor, members of the council individually, municipal boards, or the head of any municipal department upon request.
5. **PREPARE ORDINANCES.** Prepare those ordinances which the council may desire and direct to be prepared and report to the council upon all ordinances before their final passage by the council and publication.
6. **REPRESENT CITY.** Act as attorney for the city in all matters affecting the city's interests, and appear on behalf of the city before any court tribunal, commission, or board. He or she shall prosecute or defend all actions and proceedings when so requested by the mayor or the council.
7. **REPRESENT MUNICIPAL OFFICERS AND EMPLOYEES.** Not appear on behalf of any municipal officer or employee before any court or tribunal for the purely private benefit of said officer or employee. He or she shall, however, if directed by the council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance for the duties of said office or employment.
8. **CERTIFY BONDS AND POWER OF ATTORNEY.** 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.

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9. REVIEW CONTRACTS AND ORDINANCES. Make a written recommendation to the council and interested department heads concerning all contracts, documents, authorized power of the city officer, and ordinances submitted to him or her or coming under his notice before they go into effect.
 10. POWER OF ATTORNEY. 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.
- 10.02 COMPENSATION. The city attorney shall be paid such compensation as specified by resolution of the council.
(Code of Iowa, Sec. 372.13(8))

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CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS.

ARTICLE 11 - POLICE DEPARTMENT

EDITOR'S NOTE

The Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City, and the Sheriff or such entity shall exercise the powers and duties as provided in said contract and as required by law or ordinance.

(Code of Iowa, Sec. 28E.30)

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CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 12 - LIBRARY BOARD

12.01 PUBLIC LIBRARY. The free public library established for the City of Larchwood, Iowa is to be known as the Public Library.

12.02 BOARD OF LIBRARY TRUSTEES. The Board of Library Trustees is established and shall consist of five members to be appointed by the mayor and approved by the council.

(Code of Iowa, Sec. 392.5)

12.03 QUALIFICATIONS. All board members shall be bona fide citizens, over the age of eighteen (18).

12.04 TERMS. Of the five board members, one member shall hold office for one year, two for two years, and two for three years, from the first day of July following the establishment of the board. At the board's first meeting, members shall cast lots for the respective terms, reporting the result to the council. All subsequent terms and appointments thereto shall be for six years each, except to fill vacancies.

12.05 VACANCIES. A board position shall become vacant if the trustee moves permanently from the city, or is absent from four (4) consecutive regular board meetings, except in the case of illness or temporary excused absence from the city. Vacancies shall be filled by appointment of the mayor with council approval, and the new trustee shall fill the unexpired term for which the appointment was made.

12.06 POWERS AND DUTIES. The board shall have the following powers and duties:

1. OFFICERS. Meet and elect a chairperson, vice-chairperson, and secretary from its members
2. RESPONSIBLE FOR LIBRARY. Take charge, control, and supervision of the public library, its appurtenances, fixtures, and rooms or library purposes.
3. DIRECT AFFAIRS. Direct and control library affairs.
4. LIBRARIAN. Employ a librarian and fix the librarian's compensation.
5. OTHER EMPLOYEES. Authorize the librarian to employ assistants and other employees necessary to operate the library properly.
6. REMOVAL. Remove the librarian, assistants, or employees by a two-thirds vote of the board.
7. SELECT LIBRARY MATERIALS. Select, or authorize the librarian to select,

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and make purchases of all library materials and supplies, within budgetary units set by the board.

8. NONRESIDENT USE. Authorize the use of the library by nonresidents of the city and to fix charges thereof.
 9. FUNDS. Have exclusive control of all expenditures for library purposes including all monies available by gift or otherwise within council appropriations for library services.
 10. GIFTS. Accept and control the expenditure of all gifts, devises, and bequests to the library, and require the council to appropriate such monies to the library.
(Code of Iowa, Sec. 392.5)
 11. RULES AND REGULATIONS. Make and adopt, amend, modify, or repeal rules and regulations for the care, use, and management of the library, and prescribe penalties for rule violations.
 12. RECORD. Keep a record of its proceedings.
 13. HISTORICAL ASSOCIATIONS. May make agreements with local county historical associations when applicable, to set apart room for and care for articles of historical or educational interest in the possession of the association, and purchase with library funds such materials necessary to preserve and protect such articles.
- 12.07 POWER TO CONTRACT. The board may contract with any other board of trustees of a free public library and any school, corporation, city, and county. If there is a county library district, the city may contract with it for the use of the library by city residents. Such contract may be terminated at any time by mutual consent of the contracting parties, or by a majority vote of the electors represented by either contracting party.
- 12.08 NONRESIDENT USE OF THE LIBRARY. The board may authorize the use of the library by nonresidents by:
1. TERMS OF LOAN. Lending library materials to nonresidents on the same terms as to residents of the city, or upon payment of a special nonresident fee.
 2. DEPOSITORIES. Establishing depositories of library materials to be loaned to nonresidents.
 3. BOOKMOBILES. Establishing bookmobiles or a traveling library.

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4. BRANCH LIBRARIES. Establishing branch libraries.

- 12.09 LIBRARY ACCOUNT. The council shall appropriate in the general fund a library account to be used for the operation and maintenance of the library. Expenditures shall be paid only on board orders, signed by the president and secretary. The warrant-writing officer is the city clerk.
- 12.10 ANNUAL REPORT. The board shall submit an annual comprehensive report to the council after the close of the municipal fiscal year.
- 12.11 OPEN MEETINGS. All meetings of the library board shall comply with the regulations stated in Chapter 21 of the Code of Iowa.
- 12.12 LIBRARY MATERIALS. Library materials include books, plates, pictures, photographs, engravings, paintings, drawings, maps, newspapers, magazines, pamphlets, broadsides, manuscripts, documents, letters, public records, microforms, sound recordings, audiovisual materials in any format, magnetic or other tapes, electronic data processing records, artifacts, and written or printed materials regardless of physical form or characteristics, belonging to, on loan to, or otherwise in the custody of any of the following:
- a. A public library.
 - b. A library of an educational, historical, or eleemosynary institution, organization, or society.
 - c. A museum.
 - d. A repository of public records.
- (Iowa Code, Sec. 702.22(1))
- 12.13 LIBRARY EQUIPMENT. Library equipment includes audio, visual, or audiovisual machines, machinery or equipment belonging to, on loan to or otherwise in the custody of one of the institutions or agencies listed in section 12.12 of this Article.
- (Iowa Code, Sec. 702.22(2))
- 12.14 INJURY TO BOOKS OR PROPERTY. It shall be unlawful for a person to willfully, maliciously or wantonly tear, deface, mutilate, injure or destroy, in whole or in part, any library materials (i.e. newspaper, periodical, book, map, pamphlet, chart, picture or other property belonging to the library or reading room), or equipment.
- 12.15 THEFT OF LIBRARY MATERIALS. The fact that a person has concealed library materials or equipment as defined in sections 12.12 and 12.14 of this Chapter, or unpurchased property of a store or other mercantile establishment, either on the premises or outside the premises, is material evidence of intent to deprive the owner, and the finding of library materials or unpurchased property concealed upon the person or among the belongings of the person, is material evidence of

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intent to deprive and, if person conceals or causes to be concealed library materials or unpurchased property, upon the person or among the belongings of another, the finding of the same is also material evidence of intent to deprive on the part of the person concealing the library materials or goods.

12.16 DETENTION AND SEARCH.

1. Persons concealing property as set forth in section 12.15 may be detained and searched by a peace officer, person employed in a facility containing library materials, merchant, or merchant's employee, provided that the detention is for a reasonable length of time and that the search is conducted in a reasonable manner by a person of the same sex and according to subsection 2 of this section.
2. No search of the person under this section shall be conducted by any person other than someone acting under the direction of a peace officer except where permission of the one to be searched has first been obtained.
3. The detention or search under this section by a peace officer, person employed in a facility containing library materials, merchant or merchant's employee does not render the person liable, in a criminal or civil action, for false arrest or false imprisonment provided the person conducting the search or detention had reasonable grounds to believe the person detained or searched had concealed or was attempting to conceal property set forth in section 12.15.

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CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 13 - PLANNING AND ZONING/BOARD OF ADJUSTEMENT

13.01 PLANNING AND ZONING COMMISSION/BOARD OF ADJUSTMENT MEMBERS.

The City Council, of the city of Larchwood has agreed to merge the planning and zoning Commission and board of adjustment and that the group will be comprised of at least five residents of the city who shall be qualified by knowledge and experience to act in matters pertaining to the development of the city planning and zoning, none of whom shall hold any elective position in the city. Such members shall be appointed by the City Council.

(Editor's Note: Section 13.01 Planning & Zoning Commission/Board of Adjustment Members was amended by Ordinance 2016-6)

13.02 MEMBERSHIP AND TERMS OF OFFICE.

All members shall be citizens and residents of the city of Larchwood. All members shall be appointed by a motion of the council. The term of office of the commission members shall be three (3) years, except that the initial terms under the provisions of this ordinance shall be two members will serve for one (1) year, one (1) member shall serve for two (2) years, two (2) members shall serve for three (3) years. At the effective date of this ordinance the terms of all members appointed will not begin until the first Monday of the following January. The expiration of all terms of office shall occur the first Monday in January following the duration of the designated term, provided that all members shall hold office until their successors are appointed and approved. A person appointed to fill an occurring vacancy shall only serve out the remainder of the term of the member replaced.

13.03 QUORUM.

A majority of the membership of the commission shall constitute a quorum, and a quorum shall be required to conduct the business of the commission. Actions on ordinance adoptions and amendments, rezoning and zoning map changes, and subdivision final plat approval shall require a majority vote (at least three affirmative votes) of the entire commission membership.

13.04 MEETINGS.

The Planning and Zoning Commission shall meet once per month or on call of the chairperson or the city council. There shall be an annual meeting in March with the city council to discuss the commission's proceedings and activities, suggestion for plan, policy, ordinance revisions and other items relating to the commission's duties.

13.05 OFFICERS.

The Planning and Zoning Commission shall elect a chairperson and vice-chairperson from among its membership. Terms for officers shall be one (1) year. The election shall take place at the first commission meeting of the calendar year. Officers shall assume their positions immediately following the election.

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13.06 ADOPTION OF ADMINISTRATIVE RULES. The first order of business for the initial appointed Planning and Zoning Commission shall be to adopt and follow a set of administrative rules. This set of rules shall provide for all duties and procedures for normal business of the commission, and shall not supersede any requirement of the commission set forth herein. These rules shall also provide for a procedure for their own amendment.

13.07 POWERS. Said commission shall have and possess the following powers and such powers as may be incidental to the successful carrying out of the powers invested in it herein or such as may be expressly conferred upon it by law:

1. **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.
2. **ZONING PLAN**. To prepare a plan for zoning regarding the height, number of stories, and size of buildings and other structures; the percentage of ground that may be occupied; the size of yards, courts, and other open spaces; the density of population; and the location and use of buildings, structures, and land for trade, industry, residence, or other purposes and to this end shall prepare a preliminary report and hold public meetings thereon and after such hearings have been held, to submit its final report and recommendations to the city council.
3. **RECOMMEND CHANGES**. 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.
4. **OFFICIAL MAP**. To study and make recommendations on all subdivisions submitted for approval to the city and to make surveys and plans for an official map as a guideline for such approval.
5. **TRENDS**. To study trends of development in industrial, physical and social aspects of the community and make such reports as it may deem necessary.
6. **SURVEY**. To survey street and traffic problems and make recommendations thereon to the mayor and council.
7. **RECOMMENDATIONS**. To review and make recommendations on proposed vacations of streets and alleys.

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8. OPEN MEETING. All meetings of the Planning and Zoning Commission shall comply with the regulations stated in Chapter 21 of the Code of Iowa.

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CHAPTER 5: BOARDS, COMMISSIONS, AND DEPARTMENTS

ARTICLE 14 - FIRE DEPARTMENT

EDITOR'S NOTE

The City of Larchwood is under contract to purchase fire protection from the Larchwood - Sioux Fire District. Two (2) representatives, from the city council are appointed to the Larchwood - Fire District.

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CHAPTER 5: BOARDS, COMMISSION, AND DEPARTMENTS

ARTICLE 15 – Saved for Future Use

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CHAPTER 5: BOARDS, COMMISSION, AND DEPARTMENTS

ARTICLE 16 - CEMETERY

16.01 DEFINITION. The term "cemetery" shall mean the Larchwood Cemetery, which is a municipal cemetery under the provisions of Sections 566.14 to 566.18 of the 2002 Code of Iowa.

16.02 CEMETERY SUPERINTENDENT IS APPOINTED. The City Clerk shall be the cemetery superintendent who shall operate the cemetery in accordance with the rules and regulations therefore and under the direction of the council.
(Code of Iowa, Sec. 372.13 [4])

16.03 DUTIES OF CEMETERY SUPERINTENDENT. The duties of the cemetery superintendent shall be as follows:
(Code of Iowa, 372.13 [4])

1. Supervise Openings. He or she shall supervise the opening of all graves and be present at every interment; in the cemetery.
2. Maintenance. He or she shall be responsible for the maintenance of the cemetery buildings, grounds and equipment and shall make a monthly report of the cemetery operation to the council.

16.04 RECORDS. It shall be the duty of the clerk: to make and keep a permanent record of all interments made in the cemetery, which record shall at all times be open to public inspection. The record shall, among other things, include:

1. An accurate plat of the cemetery.
2. The names of the owners of all lots that have been sold.
3. The correct description of all lots for sale and the price thereof, as shall be fixed by the city council.
4. The exact location of each grave upon each cemetery lot.

16.05 SALE OF LOTS. The sale of lots in the cemetery shall be evidenced by a deed signed and executed by the mayor and the clerk for and on behalf of the city, and it shall be the duty of the clerk to collect the purchase price for any lot sold before delivering the deed of conveyance for the same. A portion of the sale price as specified by the rules and regulations established by the council, shall be set aside and deposited in the perpetual care endowment fund of the cemetery.

(Code of Iowa, Sec. 566.26)

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- 16.06 FEES, CHARGES AND PAYMENTS. The payment of all fees and charges shall be made at the office of the clerk in the city hall where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as set out in the rules and regulations then in effect as adopted by the council.
- 16.07 PERPETUAL CARE. The term "perpetual care" shall be construed to mean the obligation which the city assumes to each year expend the net annual income of the perpetual care endowment set aside for the lot in furnishing such care as mowing grass, raking and cleaning the lot and adjacent alleys, filling of sunken graves and keeping monumental work in a vertical position. Where the income is sufficient; it may be used in the perpetual care of avenues, alleys, fences, buildings and grounds in general. Expenditures shall be made at the discretion and under the direction of the council and the city shall not be bound to make any separate investment of the sum of money set aside as perpetual care, but the same shall be added to the perpetual care fund of the city and the proceeds therefrom used by the city in the manner heretofore provided.
(Code of Iowa, Sec. 566.14)
- 16.08 PERPETUAL CARE ON LOT SALES. Future lot sales in the cemetery shall be made with the perpetual care provided for, at the rates specified in the rules and regulations as adopted by the council, under and by virtue of the terms of this chapter.
(Code of Iowa, Sec. 566.16)
- 16.09 RULES AND REGULATIONS. The rules and regulations for the cemetery shall be adopted, and may be amended from time to time, by resolution of the council and shall cover the hours of opening and closing, the use of roads within the cemetery, the hours for burials, the decorating of graves, the fees for services rendered in connection with interments or the placing of markers and the cost of lots or payments for perpetual care as deemed necessary.
- 16.10 TRESPASSING OR VANDALISM IN CEMETERY. Any person who shall trespass upon any cemetery under the jurisdiction of the city by destroying, injuring or defacing any grave, vault, tombstone, or monument, or any building, fence, tree, shrub, flower, or anything in or belonging to said cemetery shall be guilty of a misdemeanor and shall be liable for any and all damage.

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CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 17 - BUDGET

17.01 FINANCE OFFICER. The city clerk shall be the finance and accounting officer of the city and shall be responsible for the administration of the provisions of this chapter.

17.02 PREPARATION. The annual operating budget of the city shall be prepared in accordance with the following:

1. **ANNUAL BUDGET BY CLERK**. The clerk shall be responsible for helping the mayor prepare the annual budget detail of revenues and expenditures, for review and adoption by the council in accordance with directives of the mayor and council.

(Code of Iowa, Sec. 384.16)

2. **BOARDS AND COMMISSIONS BUDGETS**. 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 clerk for consideration in the proposed city budget no later than December 1 of each year and in such form as may be required by the clerk.

(Code of Iowa, Sec. 384.20)

3. **SUBMISSION TO COUNCIL**. The clerk shall submit the completed budget proposal to the council no later than February 1 of each year.

4. **RESOLUTION ESTABLISHING MAXIMUM PROPERTY TAX DOLLARS**. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under Code of Iowa Section 384.1, for the City's trust and agency fund under Code of Iowa Section 384.6, Subsection 1, for the City's emergency fund under Code of Iowa Section 384.8, and for the levies authorized under Code of Iowa Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under Code of Iowa Section 384.12, Subsection 19.

(Code of Iowa, Sec. 384.15A)

5. **NOTICE OF HEARING**. The Council shall set a time and place for a public hearing on the resolution before the date for adoption of the resolution and shall publish notice of the hearing not less than 10 nor more than 20 days prior to the hearing in a newspaper published at least once weekly and having general circulation in the City. If the City has an internet site, the notice shall also be posted and clearly identified on the City's internet site

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for public viewing beginning on the date of the newspaper publication or public posting, as applicable. Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice. All of the following shall be included in the notice:

1. The sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection and the current fiscal year's combined property tax levy rate for such amount that is applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
2. The effective tax rate calculated using the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
3. The sum of the proposed maximum property tax dollars that may be certified for levy for the budget year under the levies specified in this subsection and the proposed combined property tax levy rate for such amount applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.
4. If the proposed maximum property tax dollars specified under Subparagraph (3) exceed the current fiscal year's actual property tax dollars certified for levy specified in Subparagraph (1), a statement of the major reasons for the increase. Proof of publication shall be filed with and preserved by the County Auditor. The Department of Management shall prescribe the form for the public hearing notice for cities and the form for the resolution to be adopted by the Council under Paragraph C of this subsection. At the public hearing, the Council shall receive oral or written objections from any resident or property owner of the City. After all objections have been received and considered, the Council may decrease, but not increase, the proposed maximum property tax dollar amount for inclusion in the resolution and shall adopt the resolution and file the resolution with the County Auditor as required under Code of Iowa Section 384.16, Subsection 3. If the sum of the maximum property tax dollars for the budget year specified in the resolution under the levies specified in this subsection exceeds 102 percent of the sum of the current fiscal year's actual property taxes certified for levy under the levies

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specified in this subsection, the Council shall be required to adopt the resolution by a two-thirds majority of the membership of the Council. If the City has an internet site, in addition to filing the resolution with the Auditor under Code of Iowa Section 384.16, Subsection 3, the adopted resolution shall be posted and clearly identified on the City's internet site for public viewing within 10 days of approval by the Council. The posted resolution for a budget year shall continue to be accessible for public viewing on the internet site along with resolutions posted for all subsequent budget years. Council Review. The Council shall review the proposed budget and may make any adjustments it deems appropriate in the budget before accepting such proposal for publication, hearing, and final adoption. Notice of Hearing. Following, and not until adoption of the resolution required under Subsection 4 of this section, the Council shall set a time and place for public hearing on the budget to be held before March 31 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the Code of Iowa, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication of the notice under this subsection and a copy of the resolution adopted under Subsection 4 of this section must be filed with the County Auditor.

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

6. COPIES OF BUDGET ON FILE. Not less than 20 days before the date that the budget must be certified to the County Auditor and not less than 10 days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations, and have them available for distribution at the offices of the Mayor and Clerk and at the City library.

(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 submitted at the final hearing or the applicable amount specified in the resolution adopted under Subsection 4 of this section. 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])

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17.03 BUDGET AMENDMENTS. The 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 INCREASED. Any increase in the total amount appropriated to a program must be prepared, adopted, and subject to protest in the same manner as the original budget.
2. TRANSFER OF APPROPRIATION BETWEEN PROGRAMS. 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.
(Code of Iowa, Sec. 384.18(4))
3. TRANSFER WITHIN PROGRAMS. When the clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures, the clerk shall inform the council; or if the council upon its own investigation so determines, and another account within the same program has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation, which alone or with the other account can provide the needed appropriations, the council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers.

Upon the passage of the resolution and approval by the mayor, as provided by law for resolutions, the clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the council. Thereupon, the clerk shall cause the appropriations to be revised upon the appropriation expenditure ledgers of the city, but in no case shall the total of the appropriation to a program be increased nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

(Code of Iowa, Sec. 384.15(1))

4. TRANSFER OF FUNDS. Transfers between funds may be approved by council resolution or as planned in the budget if permitted or required by law.

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CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 18 – FUNDS

18.01 FUND CONTROL. The clerk/treasurer shall establish and maintain separate and distinct funds only as required or permitted by law, and account to them as follows:

1. REVENUES. All monies received by the city shall be credited to the proper fund as required by law, ordinance, or resolution.
(Code of Iowa, Sec. 384.3)
2. EXPENDITURES. No disbursements shall be made from a fund unless such disbursement is authorized by law, ordinance, or resolution, or 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

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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.

18.02 SPECIAL FUNDS; CASH FUNDS.

1. **PETTY CASH FUND.** The clerk shall be custodian of a petty cash fund not to exceed one hundred dollars (\$100.00) 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. The clerk shall obtain some form of receipt or bill acknowledging payment by the vendor of 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 for salary payments or other personal services or personal expenses.

(Code of Iowa, Sec. 384.9)

2. **DEPOSIT OF FUNDS.** All moneys or fees collected for any purpose by any City officer shall be deposited through the office of City Clerk. 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.
3. **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)

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18.03 FUND SURPLUS. The governing body of a city utility, combined utility system, city enterprise or combined city enterprise which has a surplus in its fund may transfer such surplus to any other city fund, except the emergency fund, by resolution. A surplus shall be defined in accordance with generally-accepted accounting principles as promulgated by the American Institute of Certified Public Accountants. No transfer shall be made that is in violation of State law or rules of the city finance committee.

(Code of Iowa, Sec. 384.89)

18.04 INVESTMENT POLICY. The Council shall establish an Investment Policy to comply with the standards set in Chapter 12C of the Code of Iowa. Copies of this Investment Policy shall be distributed to all appropriate officials.

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CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 19 - FINANCIAL REPORTS

19.01 MONTHLY REPORTS. There shall be submitted to the council at the first meeting of each month a report showing the activity and status of each fund, program, subprogram, and activity for the preceding month.

19.02 ANNUAL REPORT. 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 furnished to the Auditor of the State by December 1st of each year, along with proof of publication.

(Code of Iowa, Sec. 384.22)

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CHAPTER 6: FISCAL MANAGEMENT

ARTICLE 20 – INVESTMENT POLICY

20.01 SCOPE OF INVESTMENT POLICY. The investment policy of the City of Larchwood shall apply to all operating funds, bond proceeds, and other funds accounted for in the financial statements of the City of Larchwood. All investments shall be made in accordance with this written investment policy and applicable state laws.

The investment of bond funds or sinking funds shall comply not only with this investment policy, but also be consistent with any applicable bond resolution.

This investment policy is intended to comply with Iowa Code Chapter 12.

Upon passage and upon future amendment, if any, copies of this investment policy shall be delivered to all of the following:

1. The governing body or officer of the City of Larchwood to which the investment policy applies.
2. All depository institutions or fiduciaries for public funds of the City of Larchwood.
3. The auditor engaged to audit any fund of the City of Larchwood.

20.02 DELEGATION OF AUTHORITY. In accordance with Section 12B.10(1), the responsibility for conducting investment transactions resides with the City Clerk/Finance Officer of the City of Larchwood. Only the City Clerk/Finance Officer and those authorized by resolution may invest public funds. A copy of any empowering resolution shall be attached to this investment policy.

The City Clerk/Finance Officer shall establish a written system of internal controls and investment practices. The controls shall be designed to prevent losses of public funds, to document those officers and employees of the City of Larchwood responsible for elements of the investment process, and to address the capability of investment management. The controls shall provide for receipt and review of the audited financial statements and related reports on internal control structure of all outside persons performing any of the following for the City of Larchwood.

1. Investing public funds.
2. Advising on the investment of public funds.
3. Directing the deposit or investment of public funds.

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4. Acting in a fiduciary capacity for the City of Larchwood.

A bank, savings and loan, or credit union providing only depository services shall not be required to provide an audited financial statement and related report on internal control structure.

All contracts and agreements with outside persons providing any of the above listed services shall require written notification to the City of Larchwood within thirty days of receipt of any communication from either their auditor or any regulatory authority which denotes any of the following: the existence of a material weakness in their internal control structure, regulatory orders or sanctions in regard to the services being provided to the City of Larchwood by the outside person.

The records of investment transactions made by or on behalf of the City of Larchwood are public records and are the property of the City of Larchwood whether in the custody of the City of Larchwood or in the custody of a fiduciary or other third party.

20.03 OBJECTIVES OF INVESTMENT POLICY. The primary objectives, in order of priority, of all investment activities involving the financial assets of the City of Larchwood shall be the following:

1. Safety: Safety and preservation of principal in the overall portfolio.
2. Liquidity: Maintaining the necessary liquidity to match expected liabilities.
3. Return: Obtaining a reasonable return on invested assets.

20.04 PRUDENCE. When investing or depositing public funds, the City Clerk/Finance Officer of the City of Larchwood shall exercise the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use to attain the Section 3 investment objectives. This standard requires that when making investment decisions, the City Clerk/Finance Officer shall consider the role that the investment or deposit plays within the portfolio of assets of the City of Larchwood and the investment objectives stated in Section 3.

20.05 DEPOSITORIES. All deposits shall be in depositories located in the State of Iowa. Each bank must be on the most recent Approved Bank List as distributed by the Treasurer of the State of Iowa or as amended as necessary by notice inserted in the monthly mailing from the State Treasurers Office. Each financial institution shall be properly declared as a depository by the City Council of the City of Larchwood. Deposits in any financial institution shall not exceed the

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\$3,500,000 limit approved by the City Council of the City of Larchwood.

20.06 INSTRUMENTS ELIGIBLE FOR INVESTMENT. Assets of the City of Larchwood may be invested in the following:

1. Obligations of the United States government, its agencies and instrumentalities.
2. Certificates of deposit and other evidences of deposit at federally insured depository institutions approved pursuant to Chapter 12C.
3. Prime bankers' acceptances that mature within two hundred seventy days and that are eligible for purchase by a federal reserve bank, provided that at the time of purchase no more than ten percent of the investment portfolio shall be in investments authorized by this paragraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single user.
4. Commercial paper or other short-term corporate debt that matures within two hundred seventy days and that is rated within the two highest classifications, as established by at least one of the standard rating services approved by the Superintendent of Banking by rule adopted pursuant to Chapter 17A, provided that at the time of purchase no more than five percent of all amounts invested in commercial paper and other short-term corporate debt shall be invested in paper and debt rated in the second highest classification, and provided further that at the time of purchase no more than ten percent of the investment portfolio shall be in investments authorized by this paragraph and that at the time of purchase no more than five percent of the investment portfolio shall be invested in the securities of a single user.
5. Repurchase agreements whose underlying collateral consists of the investments set out in item # if the political subdivision takes delivery of the collateral either directly or through an authorized custodian, Repurchase agreements do not include reverse repurchase agreements.
6. An open-end management investment company registered with the Federal Securities and Exchange Commission under the federal Investment Company Act of 1940, 15 U.S.C. Section 80(a), and operated in accordance with 17 C.F.R. Section 270.2a-7.
7. A joint investment trust organized pursuant to Chapter 28E prior to and existing in good standing on the effective date of Section 12115G or a joint investment trust organized pursuant to Chapter 28E after April 28,1992, provided that the joint investment trust shall either be rated within the two highest classifications by at least one of the standard rating services approved by the Superintendent of Banking by rule adopted pursuant to

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Chapter 17A and operated in accordance with 17 C.F.R. Section 270.2a-7, or be registered with the Federal Securities and Exchange Commission under the federal Investment Company Act of 1940, 15 U.S.C. Section 80(a), and operated in accordance with 17 C.F.R. Section 270.2a-7. The manager or investment advisor of the joint investment trust shall be registered with the Federal Securities and Exchange Commission under the Investment Advisor Act of 1940, 15 U.S.C. Section 80(b).

8. Warrants or improvement certificates of a levee or drainage district,

All instruments eligible for investment are further qualified by all other provisions of this investment policy, including Section 8 investment maturity limitations and Section 9 diversification requirements.

20.07 PROHIBITED INVESTMENTS AND INVESTMENT PRACTICES. Assets of the City of Larchwood shall not be invested in the following:

1. Reverse repurchase agreements.
2. Futures and options contracts.

Assets of the City of Larchwood shall not be invested pursuant to the following investment practices:

1. Trading of securities for speculation or the realization of short-term trading profits.
2. Pursuant to a contract providing for the compensation of an agent or fiduciary based upon investment performance.
3. If a fiduciary or other third party with custody of public investment transaction records of the City of Larchwood fails to produce records requested by the City of Larchwood within a reasonable time, the City of Larchwood shall make no new investment with or through the fiduciary or third party and shall not renew maturing investments with or through the fiduciary or third party.

20.08 INVESTMENT MATURITY LIMITATIONS. Operating funds must be identified and distinguished from all other funds available for investment, Operating funds are defined as those funds which are reasonably expected to be expended during a current budget year or within fifteen months of receipt.

All investments authorized in Section 6 are further subject to the following investment maturity limitations.

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1. Operating funds may only be invested in instruments authorized in Section 6 of this investment policy which mature within three hundred ninety-seven (397) days.
2. The City Clerk/Finance Officer may invest funds of the City of Larchwood that are not identified as operating funds in investments having maturities longer than three hundred ninety-seven (397) days. However, all investments of the City of Larchwood shall have maturities that are consistent with the needs and use of the City of Larchwood.

20.09 DIVERSIFICATION. Where possible, it is the policy of the City of Larchwood to diversify its investment portfolio. Assets shall be diversified to eliminate the risk of loss resulting from over concentration of assets in a specific maturity, a specific issuer, or a specific class of securities. In establishing specific diversification strategies, the following general policies and constraints shall apply:

1. Portfolio maturities shall be staggered in a way that avoids undue concentration of assets in a specific maturity sector. Maturities shall be selected which provide stability of income and reasonable liquidity.
2. Liquidity practices to ensure that the next disbursement date and payroll date are covered through maturing investments, marketable U.S. Treasury bills or cash on hand shall be used at all times.
3. Risks of market price volatility shall be controlled through maturity diversification so that aggregate price losses on instruments with maturities approaching one year shall not be greater than coupon interest and investment income received from the balance of the portfolio.

20.10 SAFEKEEPING AND CUSTODY. All invested assets of the City of Larchwood involving the use of a public funds custodial agreement, as defined in Section 12B.10C shall comply with rules adopted pursuant to Section 12B.10C relating to those investments. All custodial agreements shall be in writing and shall contain a provision that all investments shall be made in accordance with the laws of the State of Iowa.

20.11 ETHICS AND CONFLICT OF INTEREST. The City Clerk/Finance Officer and all officers and employees of the City of Larchwood involved in the investment process shall refrain from personal business activity that could conflict with proper execution of the investment program, or which could impair their ability to make impartial investment decisions. Any conflict of interest or bias, whether in fact or by appearance, shall be disclosed in writing to the City Council of the City of Larchwood.

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20.12 REPORTING. The City Clerk/Finance Officer shall submit annually in July an investment report that summarizes recent market conditions and investment strategies employed for the preceding fiscal year. The investment report shall set out the current portfolio in terms of maturity, rates of return, and other features and summarize all investment transactions that have occurred during the fiscal year. Where applicable, actual investment results shall be compared with the budgetary expectations.

20.13 INVESTMENT POLICY REVIEW AND AMENDMENT. This investment policy shall be reviewed every two years or more frequently as appropriate. Notice of amendments to the investment policy shall be promptly given to all parties noted in Section 1.

(Editor's Note: Section 20.13 Investment Policy was approved as Ordinance 4-20, approved May 5, 2014)

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CHAPTER 7: CITY RECORDS

ARTICLE 21 - CUSTODY OF THE CITY'S PUBLIC RECORDS

21.01 RECORDS - CUSTODY AND CONFIDENTIALITY RULINGS. In compliance with Chapter 22, Code of Iowa, the officers and employees bearing the titles named herein shall be in custody of the particular records or class of records assigned to the positions named by this resolution and are directed to familiarize themselves with the requirements of the law in Chapter 68A, as amended. Whenever there is a doubt concerning whether a record is an open or confidential public record the custodian thereof shall withhold the record and immediately ask for an opinion of the city attorney interpreting the law. Every effort shall be made to expedite a decision and all doubts should be resolved in favor of openness.

21.02 CLERK'S DUTY - INFORMATION. The city clerk shall obtain and place in the hands of each named custodian a copy of the public records, law and any interpretations available to the city. The clerk shall also keep informed of any amendments or new interpretations and distribute such addenda to the named custodians promptly upon receipt thereof.

21.03 CUSTODIANS NAMED FOR SPECIFIED RECORDS.

1. POSITIONS NAMED. The following city positions named shall be custodians of the specific records and related items assigned to each position:
 - a. City clerk. *Council minutes and proceedings and related papers, ordinance and resolution records, reports filed, surety bonds, deeds, abstracts for city-owned property, petitions, correspondence, special assessment schedules, bond register, all budget papers, accounts, receipts, invoices, purchase orders, warrants/checks, utility accounting records not in hands of superintendents, personnel records not in hands of a personnel officer, treasurer's accounts, warrant records, investment records, depository agreements.
 - b. City Attorney (solicitor). *Legal opinions, records of legal cases, investigations.
 - c. City Manager (administrator) (or "coordinator", "business manager"). * Study papers, correspondence log.
 - d. Personnel Officer. ** Personnel records including applications, medical exams.
 - e. City Engineer (including any consultant). Plans, profiles, other engineering

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- drawings, field notes.
- f. Building Officer (inspector). Plans, applications and permits pertaining to the office.
 - g. Cemetery (sexton) (superintendent). Cemetery plats, records of burials, copies, deeds to cemetery lots.
 - h. Librarian. Library circulation and accession lists or records.
 - i. Water Superintendent (operator, in one-man department). Operating records, volume pumped, water quality tests, etc., customer billings if responsible for billing.
 - j. Waste Water Superintendent. Operating records, volume pumped, water quality tests, etc., customer billings.
 - k. Sanitation Superintendent. Billings, activity, cost records.
2. CITY CLERK CUSTODIAN. The city clerk shall be custodian of any papers, records or documents that are named for a position where the position is vacant or does not exist and shall be custodian of any records not named until and unless the council amends the foregoing list.

* May withhold papers dealing with anticipated purchases of real property.

**Must withhold "personal" data of officers and employees unless officer or employee permits release. Name, address, salary, social security number and years worked are not "personal".

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TITLE II - PUBLIC SERVICE AND PUBLIC HEALTH

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CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 1 - GENERAL PROVISIONS

1.01 PURPOSE. The purpose of this chapter is to provide for the sanitary storage, collection, and disposal of solid wastes in order to protect the health, safety, and welfare of the citizens of this city from the hazards which may result from the uncontrolled disposal of solid wastes.

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

1. "Solid Waste" means garbage, refuse, rubbish, and other similar discarded solid or semi-solid materials, including but not limited to materials generating from industrial, commercial, agricultural, and the Code of Iowa.
(Code of Iowa, 455B.301 (20))
 - a. Garbage means all solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial byproducts, and shall include all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)
 - b. Refuse means putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator ash, incinerator residues, street cleanings, market and industrial solid wastes and sewage treatment wastes in dry or semisolid form.
(IAC, 567-100.2)
 - c. Rubbish means nonputrescible solid waste consisting of combustible and noncombustible wastes, such as ashes, paper, cardboard, tin cans, yard clippings, wood, grass, bedding, crockery, or litter of any kind.
(IAC, 567-100.2)
2. "Residential Waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape wastes grown on the premises or deposited thereon by the elements, but excludes garbage, tires, and trade wastes.
(IAC, 567-20.2)

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3. "Landscape Waste" means any vegetable or plant wastes except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(IAC, 567-20.2)
4. "Toxic and Hazardous Wastes" means waste materials including, but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, flammable or explosive materials, and similar harmful wastes, which require special handling and careful disposal to conserve the environment and protect the public health and safety.
(IAC, 567-100.2)
5. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris.
(Code of Iowa, Sec. 455B.361 (1))
6. "Rubble" means stone, brick, or similar inorganic material.
(IAC, 567-100.2)
7. "Open Burning" means any burning of combustible materials where the products of combustion are emitted into the open air without passage through a chimney or stack.
(IAC, 567-20.2)
8. "Backyard Burning" means the disposal of residential waste by open burning on the premises of the property where such waste is generated.
(IAC, 567-20.2)
9. "Open Dumping" means the depositing of solid wastes on the surface of the ground or into a body or stream of water.
(IAC, 567-100.2)
10. "Discard" means to place, cause to be place, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361 (2))
11. "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)
12. "Sanitary Disposal Project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.
(Code of Iowa, Sec. 455B.301 (18))

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13. "Sanitary Landfill" means a method of disposing of refuse on land by utilizing the principles of engineering to confine the refuse to the smallest practical volume and to cover it with a layer of earth so that no nuisance or hazard to the public health is created.
(IAC, 567-100.2)
14. "Salvage Operation" means any business, industry, or trade engaged wholly or in part in salvaging or reclaiming any product or material, including but not limited to chemicals, drums, metals, motor vehicles, or shipping containers.
(IAC, 567-20.2)
15. "Approved Incinerator" means equipment facilities for the enclosed burning of refuse having a stack adequate to maintain a draft sufficient for efficient combustion and equipped with a screen sufficiently fine to prevent ejection of particles of burning materials as approved by the city based on recommendations of the Environmental Protection Commission (EPC) of the Iowa Department of Natural Resources (IDNR).
16. "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.
- 1.03 HEALTH HAZARD. It shall be unlawful for any person to permit, to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.
- 1.04 FIRE HAZARD. It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.
- 1.05 LITTERING PROHIBITED. No person shall discard any litter on or in any water or land, except when and where authorized. 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.
(Iowa Code Sec. 455B.363)
- 1.06 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of IDNR, 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

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places other than a sanitary disposal project.

(Code of Iowa, Sec. 455B.307 and IAC, 567-100.2)

- 1.07 TOXIC AND HAZARDOUS WASTES. 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))
- 1.08 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing, or renting any premises, dwelling unit, or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:
1. CONTAINER SPECIFICATION.
 - a. Every person owning, managing, operating, leasing, or renting any commercial premise where excessive amounts of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
 2. LOCATION OF CONTAINERS. Residential solid-waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the city to use public property for such purposes. The storage site shall be well drained and fully accessible to collection equipment, public-health personnel, and fire-inspection personnel.
 3. NONCONFORMING CONTAINERS. Solid waste containers, which are not approved, will be collected together with their contents and disposed of after due notice to the owner.
- 1.09 STORAGE OF YARD WASTES. All yard wastes shall be stored in containers so constructed and maintained so as to prevent dispersal of wastes placed therein. The weight of any individual container shall not exceed sixty-five (65) pounds.
- 1.10 SANITARY DISPOSAL REQUIRED OF OWNER. It shall be the duty of each owner to provide for the sanitary disposal of all refuse accumulating on his premises before it becomes a nuisance. If such accumulation becomes a nuisance, the city may proceed to abate the nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be

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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, Sec. 657.2)

1.11 PROHIBITED PRACTICES. It shall be unlawful for any person to:

1. **UNLAWFUL USE OF CONTAINERS.** Deposit refused in any solid-waste containers other than his own 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, whether such equipment or collectors be those of the city or those of any other authorized waste-collection service.
3. **UNLAWFUL DISPOSAL.** Dispose of refuse at any facility or location which is not an approved sanitary disposal project.
4. **UNLAWFUL COLLECTION.** Engage in the business of collecting, transporting, processing, or disposing of refuse within the city without a contract with the city, or possessing a city solid waste hauler permit.
5. **INCINERATORS.** Burn rubbish or garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter.
6. **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.

1.12 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.

1.13 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.

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- 1.14 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.
- 1.15 EXCEPTIONS. Nothing in this article 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.

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CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 2 - COLLECTION AND TRANSPORTATION OF SOLID WASTE

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

1. "Solid Waste Collection." shall mean the gathering of solid wastes from public and private places.
(IAC, 567-100.2)
2. "Solid Waste Transportation." shall mean the conveying of solid waste from one place to another by means of vehicle, rail, car, water vessel, conveyor, or other means.
(IAC, 567-100.2)
3. "Residential Premises." A single family dwelling and any multiple family dwelling up to and including four (4) separate quarters. Garden type apartments and row type housing units shall be considered residential premises regardless of the total number of each such apartments or units which may be included in a given housing development.
4. "Dwelling Unit." 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. "Property Served" Any property which is being used or occupied and is eligible to receive refuse collection and disposal service as provided by this chapter.
6. "Collectors." Any person authorized by the city to gather solid waste from public and private places.

2.02 COLLECTION SERVICE. The City shall provide for the collection of refuse from residential, commercial, industrial or institutional premises within their jurisdiction which are not exempted by law.
(Code of Iowa, Sec. 455.302)

2.03 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or refuse 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.

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- 2.04 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, 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.
- 2.05 FREQUENCY OF COLLECTION. All refuse shall be collected from residential premises at least one a week and from commercial, industrial, and institutional premises as frequently as may be necessary, but not less than once each week.
- 2.06 BULKY SOLID WASTE. Bulky solid waste which is too large or heavy to be collected in the normal manner of other refuse may be collected at the discretion of the collector upon request.
- 2.07 Reserved for Future Use.
- 2.08 Reserved for Future Use.
- 2.09 RIGHT OF ENTRY. Solid waste collectors are authorized to enter upon private property for the purpose of collecting refuse as required by this chapter. However, solid waste collectors shall not enter dwelling units or other residential buildings.
- 2.10 CONTRACT WITH COLLECTOR. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than his own within the City without first obtaining from the City an annual contract in accordance to the following:

(Code of Iowa, Sec. 455B.302)

1. **REQUIRED INFORMATION**. The following information shall be required on the contract with the city:
 - a. **Name and address**. The full name and address of the applicant, and if a corporation, the names and addresses of the officers.
 - b. **Equipment**. A complete and accurate listing of the number and type of collection and transportation equipment to be used.
 - c. **Collection program**. A complete description of the frequency, routes and method of collection and transportation to be used.
 - d. **Disposal**. A statement as to the precise location and method of disposal or processing facilities to be used.

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2. **INSURANCE.** No collector's contract shall be entered into unless the applicant shall file and maintain with the city, in addition to all other requirements, evidence of satisfactory public liability insurance. This insurance must cover all pertinent operations of the applicant related to the business, equipment and vehicles to be operated in the following minimum amounts:

General Aggregate - \$1,000,000.00
Personal - \$300,000.00
Each Occurrence - \$500,000.00

Each insurance policy required shall include provisions requiring the insurance agent to notify the city of the expiration, cancellation or other termination of coverage not less than ten (10) days prior to the effective date of such action.

3. **PERMIT FREE.** A fee shall be required of every solid waste hauler, whether or not covered by a city solid waste contract. This fee is established by ordinance and is available at the office of the city clerk.
4. **CONTRACT NEGOTIATED.** If the council upon investigation finds the collector to be in order and determines that the collector will collect, transport, process or dispose of solid waste without hazard to the public health or damage to the environment and in conformity with law and ordinance, the contract shall be negotiated to be effective for a period of at least two (2) years from the date approved.
5. **ANNUAL RENEWAL.** The contract may be renewed upon council review of the contractor's compliance with its terms.
6. **CONTRACT NOT TRANSFERABLE.** No contract authorized by this chapter may be transferred to another person without council approval.
7. **OWNER MAY TRANSPORT.** Nothing within this chapter is to be construed as to prevent an owner from transporting solid waste accumulating upon premises owned, occupied or used by him or her, provided such refuse is disposed of properly in an approved sanitary disposal project.
8. **GRADING OR EXCAVATION EXCEPTED.** No contract or permit shall be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities. However, all such materials shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public right-of-way.

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2.11. RESIDENTIAL COLLECTION CHARGES. For the purpose of paying the cost of solid waste collection as provided in this chapter, there shall be assessed to each residential premises, within the City of Larchwood, a monthly solid waste collection charge in an amount determined by ordinance.

2.12. NONRESIDENTIAL COLLECTION. Nonresidential collection shall be made at such times and places and upon such rates as shall be agreed to between the person requiring service and the collector, subject to the supervision of the City Council.

2.13. COLLECTION FEES. The collection and disposal of solid waste as provided by this Chapter is declared to be a benefit to the property served and therefore, a mandatory fee shall be levied and collected for the collection and disposal of solid waste as follows:

1. SCHEDULE OF FEES. Fees for refuse collection and disposal services increase of \$.48 and \$.50 per customer are as follows per 2.5% annual increase provision in contract.

65 gallon container	\$20.14 per month
96 gallon container	\$21.16 per month
Recyclables	\$ 1.00 per month

(Ordinance 2022-3)

2. RESIDENTIAL UNIT BASED PRICING. The City will collect from each “residential premises” one of the containers as defined in Article II, Chapter 1, Article 1, Section 1.09, Subsection 1(a), per week for the monthly charge set out per container in 2.12 (1) above. The contents of additional containers will only be collected if the container is marked with an identifying tag indicating that an additional fee of \$2.00 per container has been paid.

3. PAYMENT OF FEES. The fees provided shall be due and payable on the twentieth (20th) day of each month.

4. LATE PAYMENT PENALTY. Fees not paid when due shall be deemed delinquent, and a late penalty of 1.65% of the amount due shall be added monthly.”

(Editor’s Note: Sections 2.10, 2.11 and 2.12 were passed and approved on June 4, 2001.)

(Editor’s Note: Section 2.13 was amended by Ordinance No. 68 on September 17, 2008)

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2.14 DELINQUENT ACCOUNTS. The City may take one or both of the following courses of action if an account for solid waste collection services becomes delinquent by more than thirty (30) days:

1. The City may discontinue solid waste collection, water, sewer, and/or electric services to the property for which the account is delinquent; provided that prior written notice of the intended action by the City is first sent to the account holder by ordinary mail. The notice shall inform the account holder of the nature of the delinquency and inform the account holder of the opportunity for a hearing before the city council. The notice shall be sent to the account holder at least twelve (12) days before the date intended for the service to be discontinued. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the same notice shall also be given in the same manner as required to be given to the account holder. If the account holder wishes to appear before the city council, then he or she shall notify the City Clerk in writing of his desire to appear within ten (10) days of the date of the notice sent by the City.
2. The City may certify to the County Treasurer the amount of the delinquent account, which shall become a lien on the property if the following steps have been taken by the City:
 - a. Written notice has been sent by ordinary mail to the account holder at least thirty (30) days prior to certification of the lien to the County Treasurer. The notice shall state the intention of the City to certify to the County Treasurer the amount of the delinquent account, and inform the account holder of the opportunity for a hearing before the city council. If the account holder wishes to appear before the city council, then he or she shall notify the City Clerk in writing of his desire to appear within ten (10) days of the date of the notice sent by the City.
 - b. If the account holder is a tenant, and the owner or landlord have requested notice, then the same notice shall also be given in the same manner to the owner or landlord as required to be given to the account holder.
 - c. No lien shall be imposed for delinquent charges of less than \$5.00. However, the City may charge an administration fee of up to \$5.00, which amount shall be added to the lien and collected at the time of payment of the assessment.
3. The City may institute civil proceedings in a Small Claims Court to collect the amount of the delinquent account.

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4. Any violation of the provisions of this Chapter shall also constitute a municipal infraction.

2.15 LIEN FOR DELINQUENT ACCOUNTS. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for solid waste collection, water, sewer, and/or electric service charges to the premises. Solid waste collection, water, sewer, and or electric 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)

2.16 COMBINED SERVICE ACCOUNT. The City may combine charges for solid waste collection, water, sewer and/or electric services with other city utility charges. If such a combined service account becomes delinquent, then all services may be discontinued after the required procedures have been followed.

(Editor's Note Sections 2.13, 2.14 and 2.15 were added by Ordinance No. 49, approved by Council on March 7, 2005.)

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CHAPTER 1: SOLID WASTE CONTROL

ARTICLE 3 - SOLID WASTE DISPOSAL

3.01 DEFINITIONS. For use in this article, the following terms are defined:

1. "Processing facility" shall mean any incinerator, baler, shredder or similar facility or process employed to reduce the volume or change the characteristics of, solid waste prior to final disposal.
2. "Site" shall mean any location, place or tract of land used for collection, storage, conversion, utilization, incineration or burial of solid wastes.
(IAC, 567-100.2)
3. "Scavenging" shall mean the uncontrolled removal of materials from the unloading or working area of a sanitary disposal project.
(IAC, 567-100.2)
4. "Operator" shall mean the person or agency authorized to conduct disposal operations at a public sanitary landfill or licensed private landfill.
5. "Resident" shall mean in addition to any person residing in the city, any person occupying or using any commercial, industrial or institutional premises within the city.
6. "Radioactive material" shall mean any solid, liquid, or gaseous material which emits radiation spontaneously.
(Code of Iowa, Sec. 455B.331 (2))

3.02 SANITARY DISPOSAL REQUIRED. Solid wastes generated or produced within the city shall be disposed of at a sanitary disposal or processing facility approved by the city and by the Executive Director of the EPC of the Iowa DNR. (Code of Iowa, Sec. 455B.307(1))

3.03 EXCEPTIONS. Nothing in this article 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 non-offensive vegetation, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

3.04 TOXIC AND HAZARDOUS. Toxic or hazardous wastes shall be disposed of only in accordance with explicit instructions first obtained from the Executive Director of the EPC of the Iowa DNR. (IAC, 567-102.14(2))

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- 3.05 RADIOACTIVE MATERIALS. Materials that are radioactive shall not be disposed of in a sanitary disposal project. Luminous timepieces are exempt.
(IAC, 567-102.14(1))
- 3.06 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by the approved operator are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the city.
- 3.07 PRIVATE SANITARY DISPOSAL PROJECT. No person may establish and operate a private sanitary disposal project within the city without approval of the council.

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CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 4 - PUBLIC SEWER SYSTEMS

4.01 PURPOSE The purpose of this article is to provide for the regulation of public and private sewer systems.

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

1. "SEWER SYSTEM" means pipelines or conduits, pumping stations, force mains, vehicles, vessels, conveyances, injection wells, and all other constructions, devices and appliances appurtenant thereto used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal or disposal to any water of the state. To the extent that they are not subject to section 402 of the Federal Water Pollution Control Act as amended, ditches, pipes, and drains that serve only to collect, channel, direct, and convey nonpoint runoff from precipitation are not considered as sewer systems for the purposes of this chapter.
(Code of Iowa, Sec. 455B.171(32))
2. "Sewage" means the water-carried waste derived from ordinary living processes.
(Code of Iowa, Sec. 455B.171(29))
3. "Public Sewer" means a common sewer which is directly controlled by a public authority.
4. "Private Sewer" means a sewer privately owned and not directly controlled by a public authority.
5. "Sanitary Sewer" means a sewer which carries sewage and excludes storm, surface and ground water.
6. "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 wastes.
7. "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.
8. "Industrial Wastes" means any liquid, gaseous, radioactive, or solid waste substance resulting from any process of industry, manufacturing, trade or business or from the development of any natural resource.
(Code of Iowa, Sec. 455B.171(9))

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9. "Properly Shredded Garbage" means garbage that has been shredded to such 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 to any dimension.
10. "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.
11. "Building Sewer" is that part of the horizontal piping from the building wall to its connection with the main sewer or private sewage disposal system and conveying the drainage of but one building site.
12. "Natural Outlet" means any outlet into a water course, pond, ditch, lake or other body of surface or ground water.
13. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.
14. "Contributor" means any person responsible for the production of domestic, commercial or industrial waste which is directly or indirectly discharged into the public sewer system.
15. "Sewer Rental" means any and all rates, charges, fees, or rentals levied against and payable by contributors as consideration for the servicing of said contributors by said sewer system.
16. "Slug" means any discharge of water, sewage or industrial waste which in concentration of any given constituent, or if 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.
17. "Interceptor" means a device designed and installed so as to separate and retain deleterious, hazardous and undesirable, matter from normal wastes and permit normal sewage or liquid wastes to discharge into the drainage system.
18. "Superintendent" means the person assigned to supervise the sanitary sewage collection system and treatment works.
19. "Owner" means in addition to the record titleholder, includes any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities,

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liabilities and obligations hereinafter imposed shall be joint and several.

(Editor's Note: Council amended Title II, Chapter 2, Article 4.02 per Ordinance No. 36, by adding a subsection (19) "Owner" on January 21, 2002).

20. "Garbage": shall mean solid wastes from the preparation, cooking and dispersing of food, and from the handling, storage and sale of produce.
 21. "pH": Means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution. It is used to indicate the concentration of free acid and alkali.
 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.
- 4.03 DAMAGING SEWER SYSTEM. No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the sewer system.
(Code of Iowa, Chapter 716)
- 4.04 MANHOLES. No person shall open or enter any manhole of the sewer system, except by authority of the public works department.
(Code of Iowa, Chapter 716)
- 4.05 TREATMENT REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or " other purposes, situated within the City and abutting on any street, alley or, right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet (30.5 meters) of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. The council may make a determination that up to 250 feet is practical for a connection to a public sewer system in specific circumstances. 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))

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4.06 SPECIAL PENALTIES. The following special penalty provisions shall apply to violation of this chapter:

1. NOTICE OF VIOLATION. Any person found to be violating any provision of this chapter except sections 4.03, 4.04, and 4.05, 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 guilty of a misdemeanor, and on conviction thereof shall be fined an amount not exceeding five hundred (\$500) dollars for each violation. 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 this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

4.07 PERMIT. Before any person opens, uncovers, or in any manner makes a connection with any part of the public sewers, the person must obtain a written permit from the clerk. The following shall apply to all permits:

1. APPLICATION. The application shall be filed on blanks furnished by the city and contain the following information:
 - a. Legal description of the property.
 - b. Name of property owner.
 - c. Amount and date of any prior assessment for construction of the public sewers.
 - d. Description of materials to be used and manner of construction.
 - e. The line of the building sewer and place of connection.
 - f. Intended use of the sewer.
 - g. Name and address of the person doing the work.
2. ISSUANCE. The permit shall be issued bearing the time and date of issuance if the proposed work meets all the requirements and if all required fees have been paid. Work under any permit must begin within six (6) months of the issuance date.
3. REVOCATION. The superintendent at any time may revoke the permit for any violation of this chapter and require that the work be stopped. The owner or plumber may appeal such action to the council.

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4. FEE. Before any permit is issued, the person who makes the application shall pay a fee as established by ordinance of the city council to cover the cost of issuing the permit and supervising, regulating and inspecting the work. The clerk shall maintain a list of these fees.
- 4.08 CONNECTIONS. The owners of all residences and business establishments intended or used for human habitation, occupancy, or uses which abut public sewers must connect their sewage facilities to the public sewers. The following shall pertain to all connections.
- (Code of Iowa, Sec. 364.12(3f))
1. PLUMBER REQUIRED. Any installation of a private sewer and its connection to a public sewer shall be made by a competent plumber.
 2. CONNECTION FEE. This shall be a fee for the initial connection of sewer line. This fee is established by ordinance. The clerk shall maintain a list of these fees.
 3. SPECIAL CONNECTION CHARGE. If the property to be connected to a public sewer has not been assessed for any part of the cost of construction of construction of the public sewers, or has been assessed only as an unimproved lot, the owner shall pay a special connection charge to the city for the use of the public sewers before the permit is issued. The fee amount shall be determined by the council by ordinance.
 4. SEPARATE CONNECTIONS. In no case shall a joint sewer be allowed where the property abuts on a street, alley or easement in which there is a public sewer. Other buildings in adjacent areas which are required to be connected shall be separately and independently connected to the public sewers unless the council specifically permits joint connections by resolution.
 5. 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.
 6. SEWER TAPS, AT "Y" BRANCH. 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, the property owner shall, at his own expense, install a "Y" saddle, carefully mortared set into the public sewer at the location specified by the clerk.
 7. WATERCOURSE CROSSINGS. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse

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must of necessity be crossed and 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 and be adequately supported if more than one pipe length is used.

- 4.09 QUALITY OF PIPE AND FOUNDATION. Building sewer pipes shall be of the best quality, free from flaws, splits or breaks. They shall be laid on a smooth bottom with bell holes cut in the bottom of the trench so that the joining of the bell and the spigot shall be watertight, gastight and root proof. All sewer pipes must be laid in such a manner as to prevent rupture or misalignment by settlement or freezing.
- 4.10 GRADE. All sewer pipes shall be laid with a uniform grade from the building to the public sewer system and no offsetting will be allowed without written permission of the superintendent.
- 4.11 OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection and maintenance of the building sewer shall be the responsibility of the owner. The owner shall indemnify the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- 4.12 INTERCEPTORS. Grease, oil, sludge and sand interceptors shall be provided by filling stations, automobile wash racks, 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. All interceptors shall be of a type and capacity as provided by the State Plumbing Code, and shall be located so as to be readily and easily accessible for cleaning and inspection.
1. REQUIREMENT. 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.
 2. MAINTENANCE. All interceptors of grease, oil, sludge and sand shall be maintained by the owner at his expense in continuously efficient operations at all times.
- 4.13 EXCAVATIONS. Excavations for sewers shall be dug so to present the least possible inconvenience to the public and to provide for the passage of water along the gutter. Such excavations shall have proper barricades at all times, and warning lights placed from one-half (1/2) hour before sunset to one-half (1/2) hour after sunrise. The excavation must be backfilled in accordance with city specifications as

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to material and compaction so as to prevent settlement. The plumber must maintain the affected area in good repair to the satisfaction of the council for three (3) months after refilling. No excavation shall be made within six (6) feet of any laid water pipe while the ground is frozen, and no water or sewer pipe shall be exposed to frost, except by special written permission of the superintendent.

- 4.14 SEPARATE TRENCHES. The building drain and water service pipe shall be at least ten feet apart horizontally, and shall be separated by undisturbed or compacted earth.
- 4.15 EXCEPTION. The building sewer or building drain may be placed in the same trench with the water service pipe provided the following conditions are met:
1. WATER SERVICE PIPE ABOVE SEWER LINE. The bottom of the water service pipe, at all points, shall be at least twelve (12) inches above the top of the sewer line at its highest point.
 2. WATER SERVICE PIPE ON SHELF. The water service pipe shall be placed on a solid shelf excavated at one side of the common trench. Where ground conditions do not permit a shelf, the pipe may be laid on a solidly tamped backfill.
 3. NUMBER OF JOINTS. The number of joints in the water service pipe shall be kept to minimum.
 4. PRESSURE PROHIBITED. No part of the building sewer or building drain shall be under pressure.
- 4.16 RESTORATION OF PUBLIC PROPERTY. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city, at the expense of the property owner.
(Code of Iowa, Sec. 364.12)
- 4.17 COMPLETION BY CITY. Should any excavation be left open or partly refilled for twenty-four (24) hours after the private sewer is installed and connected with the public sewer, the superintendent 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 he or she can receive another permit. The plumber's bond required for a plumber's license shall be security for the assessment. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.
(Code of Iowa, Sec. 364.12(3h))
- 4.18 INSPECTION AND APPROVAL. All private sewers and their connections with the public sewers must be inspected and approved by the superintendent before being backfilled. If approval is refused, the plumber or owner must proceed immediately

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to correct the work so that it will meet with approval.

4.19 PROHIBITED DISCHARGE SPECIFIED. No person shall discharge or cause to be discharged any of the following described waters or waste to a public sanitary sewer:

1. SURFACE WATERS. Any storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water or unpolluted industrial process waters.
2. HIGH TEMPERATURES. Any liquid or vapor having a temperature higher than 150 degrees F.
3. FLAMMABLE MATERIALS. Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas.
4. FAT OIL, GREASE. Any water or waste which contains more than one hundred (100) parts per million by weight of fat, oil, or grease.
5. GARBAGE. Any garbage that has not been properly shredded.
6. SOLID OR VISCOUS SUBSTANCES. Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure or any other solid or viscous substance capable of causing the obstruction of the flow in sewers or other interference with the proper operation of the city's sewage and treatment system.
7. SUSPENDED SOLIDS. Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.
8. CORROSIVE WASTES. Any water or wastes having corrosive properties capable of causing damage or hazard to structures, equipment or personnel of the sewage system. Free acids and alkalis of such wastes must be neutralized within a permissible range of PH between 4.5 and 10.0.
9. SLUGS. Any wastes that for a duration of fifteen (15) minutes have a concentration greater than five (5) times that of "normal sewage" as measured by suspended solids.
10. NOXIOUS OR MALODOROUS GAS. 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.

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11. TOXIC OR POISONOUS SUBSTANCE. Any water or waste containing a toxic or poisonous substance in sufficient quantity to injure or interfere with sewage treatment or the sewer system, that would constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage system.
12. MATERIALS WHICH REACT WITH WATER OR WASTES. 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 sewage structures and treatment processes.
13. SPECIAL AGREEMENTS PERMITTED. No statement in this section shall be construed as preventing any 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 as to treatment, rate and cost as established by the council.
14. 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 interest of the sewer system.
15. SUSPENDED SOLIDS. Any waters or waste containing suspended solids of such character and quantity that unusual attention or expense is required to handle such material at the sewage treatment plant.
16. ABANDONED SEWER LINES. When a sewer line in a home or business is discontinued or abandoned, the property owner shall dig the line and cap it off so that no fresh water may be discharged into the sanitary sewer. Furthermore, it must be inspected by the Wastewater Superintendent and given his or her approval.
17. UNPOLLUTED WATERS OR WASTES IN SEWERS.
 - A. 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 of utilities. Industrial cooling water or unpolluted process waters may be discharged on approval of the superintendent to a storm sewer, combined sewer or natural outlet.
 - B. No owner or occupant of any building shall discharge or permit to be

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discharged into the sanitary sewers any substance which will clog the pipes or joints or interfere unduly with the sewage disposal process.

- 4.20 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 system upon the terms and conditions stipulated by resolution of the council.

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

- 4.21 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines located upon the private property of any owner which is in violation of any of the requirements of this article, with the exception of the requirements of Subsection 4.19(14) of this article, shall be corrected at the owner's expense, within thirty (30) days after date of official notice from the council of such violations. If not made within such time the council shall, in addition to the other penalties 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(3h))

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CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 5 - PRIVATE SEWER SYSTEMS

5.01 DEFINITIONS. The following terms are defined for use in this article.

1. "Private Sewage Disposal System" means all equipment and devices necessary for proper conduction, collection, storage, treatment and disposal of sewage from a dwelling or other facility serving the equivalent of fifteen (15) persons or less and including building sewers, septic tanks, absorption fields, leaching or seepage pits, privy vaults and subsurface sand filters.
2. "Reasonable Accessible" means a distance from a property to a sanitary sewer of 100 feet but the council may make a determination that up to two hundred fifty (250) feet is practical for a connection to a public sewer system in specific circumstances.

5.02 WHEN PROHIBITED. No private sewage disposal system shall be installed where a public sanitary sewer is reasonably accessible as determined by the council unless an exception is granted in writing.

(IAC, 567-69.3 (3) (a) (1))

5.03 PRIVATE SYSTEM REQUIRED. When a public sanitary sewage is not reasonably accessible, every building wherein persons reside, congregate or are employed shall be provided with private sewage disposal system complying with state and local laws.

(IAC, 567-69.3 (3) (a) (3))

5.04 CONNECTION REQUIRED WHEN AVAILABLE. When a public sanitary sewer becomes reasonably accessible, any building then served by a private sewage disposal system shall be connected to the public sewage system.

(IAC, 567-69.3 (3) (a) (2))

5.05 PRIVATE SYSTEMS ABANDONED. Within sixty (60) days of notice that a public sewer is available to a property served by a private sewage disposal system, a direct connection shall be made to the public sewer and the private sewage disposal facility shall be abandoned and filled with suitable material.

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

5.06 COMPLIANCE WITH STATE RULES. The type, capacity, location and layout of a private sewage disposal system shall comply with all recommendations of the State Department of Health.

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- 5.07 DISCHARGE TO NATURAL OUTLETS PROHIBITED. No septic tank or cesspool shall be permitted to discharge to any natural outlet or drain into the open.
(IAC, 567-69.3(3)(c))
- 5.08 MAINTENANCE OF FACILITIES. The owner of private sewage disposal facilities shall operate and maintain the facilities in a sanitary manner at all times and at no expense to the city.
- 5.09 DISPOSAL OF WASTE. It shall be unlawful for any person to place any effluent or waste from cesspools, septic tanks or privy vaults in any place in the city except where may be designated by the council. The rate or charge for receiving such waste shall be determined by resolution of the council.
- 5.10 ADDITIONAL REQUIREMENTS. No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by any health officer acting in his official capacity.

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CHAPTER 2: SANITARY SEWER SYSTEMS

ARTICLE 6 - SEWER RENTAL

6.01 SEWER RENTAL REQUIRED. Every contributor shall pay to the city sewer rental fees as hereinafter provided.

(Code of Iowa, Sec. 384.84(1))

6.02 RATES AND SERVICES. Sewer service shall be furnished at the following monthly service charge rates within the City, effective July 20, 2021, billing cycle, and the monthly service charge shall increase \$1.00 for a period of ten (10) years:

<u>Year</u>	<u>Monthly Service Charge Rate</u>
2021	\$23.00
2022	\$24.00
2023	\$25.00
2024	\$26.00
2025	\$27.00
2027	\$28.00
2028	\$29.00
2029	\$30.00
2030	\$31.00
2031	\$32.00

Each year's monthly service charge increase will be effective starting with the July billing cycle.

(Ordinance 2022-2)

6.03 SPECIAL RATES. Where in the judgment of the council, special conditions exist to the extent that the application of the sewer rental provided in section 6.02 would be inequitable or unfair to either the city or the contributor, a special rate shall be proposed by the council and submitted for approval by resolution.

(Code of Iowa, Sec. 384.84(2b))

6.04 PRIVATE WATER SYSTEMS. Contributors whose premises are served by a private water system shall pay sewer rentals based upon water use as determined by the council either by an estimate agreed to by the contributor or by metering the water system at the contributor's expense. Any negotiated or agreed upon sales or rentals shall be subject of approval of the council.

(Code of Iowa, Sec. 384.84(2b))

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6.05 DELINQUENT ACCOUNTS. The City may take one or both of the following courses of action if an account for solid waste collection services becomes delinquent by more than thirty (30) days:

1. The City may discontinue solid waste collection, water, sewer, and/or electric services to the property for which the account is delinquent; provided that prior written notice of the intended action by the City is first sent to the account holder by ordinary mail. The notice shall inform the account holder of the nature of the delinquency and inform the account holder of the opportunity for a hearing before the city council. The notice shall be sent to the account holder at least twelve (12) days before the date intended for the service to be discontinued. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the same notice shall also be given in the same manner as required to be given to the account holder. If the account holder wishes to appear before the city council, then he or she shall notify the City Clerk in writing of his desire to appear within ten (10) days of the date of the notice sent by the City.
2. The City may certify to the County Treasurer the amount of the delinquent account, which shall become a lien on the property if the following steps have been taken by the City:
 - a. Written notice has been sent by ordinary mail to the account holder at least thirty (30) days prior to certification of the lien to the County Treasurer. The notice shall state the intention of the City to certify to the County Treasurer the amount of the delinquent account, and inform the account holder of the opportunity for a hearing before the city council. If the account holder wishes to appear before the city council, then the account holder shall notify the City Clerk in writing of his desire to appear within ten (10) days of the date of the notice sent by the City.
 - b. If the account holder is a tenant, and the owner or landlord have requested notice, then the same notice shall also be given in the same manner to the owner or landlord as required to be given to the account holder.
 - c. No lien shall be imposed for delinquent charges of less than \$5.00. However, the City may charge an administration fee of up to \$5.00, which amount shall be added to the lien and collected at the time of payment of the assessment.
5. The City may institute civil proceedings in a Small Claims Court to collect the amount of the delinquent account.
6. Any violation of the provisions of this Chapter shall also constitute a

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municipal infraction.

6.06 LIEN FOR DELINQUENT ACCOUNTS. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for solid waste collection, water, sewer, and/or electric service charges to the premises. Solid waste collection, water, sewer, and or electric 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)

6.07 COMBINED SERVICE ACCOUNT. The City may combine charges for solid waste collection, water, sewer and/or electric services with other city utility charges. If such a combined service account becomes delinquent, then all services may be discontinued after the required procedures have been followed.

(Editor's Note Sections 6.05, 6.06 and 6.07 were added by Ordinance No. 49, approved by Council on March 7, 2005.)

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CHAPTER 3: WATER SERVICES

ARTICLE 7 - PUBLIC WATER SYSTEM

- 7.01 PURPOSE. The purpose of this chapter is to provide for the regulation of the public water system and water meters and the establishment of water rates.
- 7.02 DEFINITIONS. For use in this chapter the following terms are defined:
1. "Water System" or "Water Works" means all public facilities for securing, collecting, storing, pumping, treating, and distributing water.
 2. "Water Main" means a water supply pipe provided for public or community use.
 3. "Water Service Pipe" means the pipe from the water main to the building served.
 4. "Customer" means any person receiving water service from the city.
 5. "Superintendent" means the waterworks superintendent or his duly authorized assistant, agent or representative.
 6. "Shallow Public Well": shall mean 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.
 7. "Deep Public Well": shall mean 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.
- 7.03 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.
- 7.04 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a competent plumber.
- 7.05 PERMIT REQUIRED. Before any person makes a connection with the public water system, a written permit must be obtained from the clerk. The following shall apply

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to all permits:

(Code of Iowa, Sec. 384.84(2))

1. **APPLICATION.** Application for the permit shall be filed with the clerk on blanks furnished by the city. It shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses will be allowed except by written permission of the clerk.
 2. **ISSUANCE.** The clerk shall issue the permit, signed by the clerk, and stating the time of issuance, if the proposed work meets all the requirements of this article and if all fees required under this article have been paid. Work under any permit must begin within six (6) months after it is issued. The clerk may at any time revoke the permit for any violation of this article and require that the work be stopped.
 3. **FEE.** Before any permit is issued the person who makes the application shall pay to the clerk the cover cost of issuing the permit and supervising, regulating and inspection of the work.
- 7.06 **FEE FOR INITIAL CONNECTION.** There shall be a fee for the initial connection of water lines. It is established by ordinance and is available at the office of the city clerk.
- (Code of Iowa, Sec. 384.84(2))
- 7.07 **ABANDONED CONNECTIONS.** When an old water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation cock and made absolutely watertight.
- 7.08 **TAPPING MAINS.** All taps into water mains shall be made under the direct supervision of the superintendent and in accord with the following:
1. **INDEPENDENT SERVICES.** No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the council 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 three-fourths (3/4) inch tap. All mains over six (6) inches in diameter shall receive no larger than a one (1) inch tap. Where a larger connection than a one (1) inch tap is desired, two (2) or more small taps or saddles shall be used as the superintendent orders. All taps in the mains shall be made at or near the top of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint of the main.

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3. CORPORATION COCK. A brass corporation cock of the pattern and weight approved by the council shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than one (1) size smaller than 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 required by him or her.
- 7.09 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be standard weight type K copper, P.V.C. meeting I.A.P.M.O. specification IS-14-72, or approved cast as to prevent rupture from settlement or freezing.
 - 7.10 CURB STOP. There shall be installed a main shutoff 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 council. The shutoff valve shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.
 - 7.12 INTERIOR STOP AND WASTE COCK. There shall be installed a shutoff 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 the service to the others.
 - 7.13 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 in Sec. 4.13 of this Title.
 - 7.14 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 superintendent has the right to finish or correct the work, and the council will assess the costs to the property owner or the plumber. Assessments will be collected as provided for in Section 4.21 of this Title.
 - 7.15 SHUTTING OFF THE WATER SUPPLY. After giving reasonable notice, the superintendent may shut off the supply of water to any customer because of any substantial violation of this article. The supply shall not be turned on again until all violations have been corrected and the council has ordered the water to be turned on.
 - 7.16 TURN ON FEE. There shall be a fee to turn on water service after it has been shut off due to a violation. This fee shall be established by ordinance of the city council

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and is available at the office of the city clerk.

- 7.17 OWNER RESPONSIBLE FOR MAINTENANCE. It shall be the responsibility of the owner of the property connected to any water main to keep in good repair and free of any leaks, from but not including the curb stop, the water service pipe, whether in the public right of way or not.

(Editor's Note: Ordinance No. 40, approved by Council, amended Section 7.17)

- 7.18 FAILURE TO MAINTAIN. When any corporation cock or water service pipe becomes defective and leaks and the owner fails to repair the leak and any damage to street surface resulting from the leak, the city may do so and assess the costs to the property owner and if not paid within 30 days of billing, the clerk shall certify the cost to the county auditor to be collected in the same manner as taxes.
(Code of Iowa, Sec. 364.12 (3h))

- 7.19 WATER MAIN EXTENSION POLICY. A water main extension will be made by the city upon application by any person desiring service to his property who signs a contract for such service and pays the cost thereof through a connection charge or otherwise as required by this chapter. No water main will be extended beyond the city limits for commercial or residential purposes unless the applicant agrees to voluntarily petition for annexation simultaneously with such extension where the applicant's property is contiguous to the corporate limits, or agrees to so petition as soon as the applicant's property becomes contiguous to the city limits and files for future use such petition so conditioned.

Water mains will be extended beyond the city limits for any industrial establishment which will employ ten employees or more within one year of the extension over the above existing employment in the community, without annexation being required if it is shown that the industry needs the tax benefit, or if it is on property not contiguous to the city limits.

If the water superintendent determines that no foreseeable need will occur for a public water main, and so recommends to the city council upon council approval, an applicant for service may be permitted to construct a private main in an undeveloped public right-of-way (i.e. no travelled way or no more than a graded and/or travelled vehicular way), provided the work shall meet the city requirements for installations in the public way, including placement in the standard location, protection of work, quality of construction, and backfilling. Such main shall originate in a meter and be the property of the owner who shall be responsible for maintenance in the same manner as with water service pipes. It shall be condition of the contract for connection that the city will not reimburse the owner for such a main if it has to be replaced with a public main after five years or more use.

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7.20 MAIN EXTENSION CHARGES. Water service shall be provided through an extension of a water main in the following cases:

1. For distances up to fifty (50) feet beyond existing end of a city-owned main, upon request of a person who contracts to immediately tap the main upon the completion of the extension and who can be expected to use water service upon the completion of construction of the residence or commercial building or facility to be served...no connection charge.
2. Where two (2) applicants, one on each side of a street make application at the same time under the same contract conditions as in "1" above, extension will be made for one hundred (100) feet...no connection charge.
3. Where a single tap is contemplated by an applicant for an extension exceeding 50 feet and it is not foreseeable that other customer taps will be applied for before construction is begun, the applicant shall deposit with the city clerk a sum equal to the estimated cost of the extension required, as determined by the water superintendent, and enter into a contract providing for the deposit and any future rebates in accordance with the following provisions:
 - a. The city will refund any excess of deposit over the actual cost for the extension.
 - b. For each customer later connected to the main the city will rebate the proportional share (by feet of frontage) as set out in the contract, the cost of the extension to the original applicant, but not in excess of the final payment by that applicant, provided such connections are made within five (5) years, after which time no rebates shall be paid. However, the applicant shall be entitled to a refund of the unpaid balance of the full amount deposited with the city whenever the revenue derived from the sale of water to customers directly connected to the extension is equal in each of two consecutive twelve (12) month periods within the five (5) years following application to ten (10) percent of the total actual cost of the main extension. Customer is defined as the occupant of a one-family dwelling, a one-family portion of a two-family dwelling, or as a single commercial establishment contracting for water in its own name (and from its own meter).
4. The main extension shall be built to city standards and become the property of the city as it is installed. If the applicant hires the construction, the city shall inspect the work for compliance with city standards and may enforce

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the specifications.

- 7.21 WATER MAIN CONSTRUCTION STANDARDS. No water tap will be allowed for service to a property except when a public water main runs along the street in front of the property (unless an alley or easement is determined by the city to be the best approach to serving the property) and at least ten (10) feet beyond the side property line, extended, nearest to the supply side of the main.

The tap must be at least four (4) feet beyond that property line, extended, of the abutting property. No public main shall be less than four inches in diameter, but no such four-inch (4") main shall be extended more than two hundred (200) feet and only if no foreseeable and feasible user can be served beyond said 200 feet. The city reserves the right to put in the size of main required for an adequate pressure for reasonable foreseeable customer service. The main shall be installed and be of the quality required by specifications adopted by the council upon recommendation of the water superintendent.

- 7.22 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved by the superintendent. If approval is refused, the plumber or property owner must immediately proceed to correct the work in order to meet approval.

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CHAPTER 3: WATER SERVICES

ARTICLE 8 - WATER METERS

- 8.01 METERS REQUIRED. All water furnished customers shall be measured through meters furnished and installed by the city.
(Code of Iowa, Sec. 384.84(1))
- 8.02 FIRE SPRINKLER SYSTEM. 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.
- 8.03 LOCATION. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.
- 8.04 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter by the city.
- 8.05 METER REPAIRS AND COSTS. 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 consumer or property owner, then the property owner shall be liable for the cost of repairs.
- 8.06 RIGHT OF ENTRY. The superintendent is permitted to enter the premises of any consumer at any reasonable time to remove or change a meter.
- 8.07 INSTALLATION FEE. There shall be a fee charged to the property owner for each new installation of a water meter in accordance with a schedule of such fees as established by ordinance and adopted by the council.

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CHAPTER 3: WATER SERVICES

ARTICLE 9 - WATER RATES

9.01 SERVICE CHARGES. Each customer shall pay for water service provided him or her by the city based upon his use of water, as determined by meters provided for in Article 8 of this chapter. 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(1))

9.02 RATES AND SERVICES. Water service shall be furnished at the following monthly service charge rates within the City, effective July 20, 2021, billing cycle, and the monthly service charge shall increase \$1.00 for a period of ten (10) years:

<u>Year</u>	<u>Monthly Service Charge Rate</u>
2021	\$23.00
2022	\$24.00
2023	\$25.00
2024	\$26.00
2025	\$27.00
2027	\$28.00
2028	\$29.00
2029	\$30.00
2030	\$31.00
2031	\$32.00

Each year's monthly service charge increase will be effective starting with the July billing cycle.

In addition to the above monthly service charge rates, each additional 1,000 gallons shall be \$2.78 per thousand

(Ordinance 2022-1)

9.03 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 the rates provided in Section 9.02. No such customer, however, will be served unless the customer has 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))

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9.04 BILLING PERIODS FOR WATER SERVICE. Billing and payment for water service shall be in accordance with the following:

1. METERS READ. Water meters that do not have a remote shall be read monthly by the homeowner or tenant. Failure to read the meter by the 20th each month will result in water disconnection and reconnection charges of \$25.00 will be made for renewal of service during regular working hours. Remote meters can be installed by the City, with the City supplying the meter and the wire and the homeowner will be responsible to run the wire outside. The City will read all water meters once per year and the homeowner will pay any differences in readings.
(Ordinance No. 6, approved March 7, 2011)
2. PAYMENT. All water charges are due on the twentieth (20th) day of each month following the close of the billing quarter and payable by the twentieth (20th) of that month to the clerk.
3. LATE PAYMENT PENALTY. Charges not paid by the twentieth (20th) following the due date shall be deemed delinquent and a late penalty of one and one half (1 1/2%) percent of the amount due shall be added to each delinquent bill.

(Editor's Note: Ordinance 72, approved by Council on December 1, 2008, amended Section 9.04)

9.05 DISCONTINUING SERVICE, FEES. The superintendent, or his authorized assistant, shall shut off the supply of water to any customer who, not having contested the amount billed in good faith, has failed to pay the bill for water on or before the twelfth (12th) day after sending notice in writing that the water supply will be shut off. The turn off notice shall contain a statement that the customer has the right to obtain an explanation of the bill from the superintendent, and if not satisfied may appeal the turn off to the council if requested at least three days before the deadline. The time of notice shall be such that the deadline shall not fall on Friday or the day before a holiday. The clerk shall send such notice immediately following the delinquent date. Saturdays, Sundays, or a legal holiday intervening during the twelve (12) day notice period shall not be counted. If payment is tendered to the utility representative at the time of the turn off trip, there shall be added a service fee as well as a turn on fee which are set by ordinance of the city council. No turn on fee or service fee shall be charged for the usual or customary trips in the regular changes in occupancies of property, whether the meter is removed for the safety of the meter, or not removed.

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- 9.06 SHUTTING OFF WATER. The superintendent, or his authorized assistant, may shut off the supply of water to the customer without notice when the customer is found to be using water consuming equipment in a manner adversely affecting the utility's system or its ability to serve others, such as cross-connections, back-siphonage, wastage to the extent of drastically reducing water pressure, or any other action so affecting the safety or proper operation of the system; and the water supply shall not be restored until the customer has corrected the condition. The superintendent may likewise shut off the water supply to a customer for violation of or noncompliance with the rules by said customer or for failure of the customer to permit the superintendent, or his authorized assistant, reasonable access to the customer's premises for the purposes enumerated in sections 8.05 and 8.06, provided the superintendent shall have given written notice allowing ten (10) days from date of mailing or personal notice to comply, Sundays or holidays excepted, and such notice shall state that the customer has the right to appeal to the superintendent for an explanation of the action.
- 9.07 METER ACCURACY AND TESTS. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The superintendent shall make a test of the accuracy of any water meter when requested in writing. If it is found that such meter overruns to the extent of two (2%) percent or more, the cost of the tests shall be paid by the city, and the city will credit on the next bill the overcharges collected since the last known date of accuracy, not to exceed thirty (30) months. If the meter is found to be accurate or slow, the customer shall pay the reasonable costs of the test.
- 9.08 DELINQUENT ACCOUNTS. The City may take one or both of the following courses of action if an account for solid waste collection services becomes delinquent by more than thirty (30) days:
1. The City may discontinue solid waste collection, water, sewer, and/or electric services to the property for which the account is delinquent; provided that prior written notice of the intended action by the City is first sent to the account holder by ordinary mail. The notice shall inform the account holder of the nature of the delinquency and inform the account holder of the opportunity for a hearing before the city council. The notice shall be sent to the account holder at least twelve (12) days before the date intended for the service to be discontinued. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the same notice shall also be given in the same manner as required to be given to the account holder. If the account holder wishes to appear before the city council, then he or she shall notify the City Clerk in writing of his desire to appear within ten (10) days of the date of the notice sent by the City.

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2. The City may certify to the County Treasurer the amount of the delinquent account, which shall become a lien on the property if the following steps have been taken by the City:
 - a. Written notice has been sent by ordinary mail to the account holder at least thirty (30) days prior to certification of the lien to the County Treasurer. The notice shall state the intention of the City to certify to the County Treasurer the amount of the delinquent account, and inform the account holder of the opportunity for a hearing before the city council. If the account holder wishes to appear before the city council, then he or she shall notify the City Clerk in writing of his desire to appear within ten (10) days of the date of the notice sent by the City.
 - b. If the account holder is a tenant, and the owner or landlord have requested notice, then the same notice shall also be given in the same manner to the owner or landlord as required to be given to the account holder.
 - c. No lien shall be imposed for delinquent charges of less than \$5.00. However, the City may charge an administration fee of up to \$5.00, which amount shall be added to the lien and collected at the time of payment of the assessment.
3. The City may institute civil proceedings in a Small Claims Court to collect the amount of the delinquent account.
4. Any violation of the provisions of this Chapter shall also constitute a municipal infraction.

9.09 LIEN FOR DELINQUENT ACCOUNTS. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for solid waste collection, water, sewer, and/or electric service charges to the premises. Solid waste collection, water, sewer, and or electric 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)

9.10 COMBINED SERVICE ACCOUNT. The City may combine charges for solid waste collection, water, sewer and/or electric services with other city utility charges. If such a combined service account becomes delinquent, then all services may be discontinued after the required procedures have been followed.

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(Editor's Note Sections 9.08, 9.09 and 9.10 were added by Ordinance No. 49, approved by Council on March 7, 2005.)

CHAPTER 3: WATER SERVICES

ARTICLE 10 - PUBLIC WATER WELLS

10.01 SHALLOW WELL PROTECTION. No structure or facility of the following enumerated and listed types shall be located within the distances set forth after each structure or facility, from a shallow public well within the City of Larchwood, Iowa:

1. Well house floor drains - 5 feet.
2. Water treatment plants wastes - 50 feet.
3. Sanitary and industrial discharges - 400 feet.
4. Floor drains from pump house to surface - none within 5 feet.
 - A. 5-10 feet water main materials enclosed in concrete permitted.
 - B. 10-25 feet must be water main material
 - C. 25-75 feet must be watertight sewer pipe
5. Floor drains to sewers, water plant wastes, storm or sanitary sewers or drains.
 - A. None permitted within 25 feet
 - B. If closer than 75 feet, must be water main material
 - C. If between 75 and 200 feet, must be watertight sewer pipe.
6. Force mains:
 - A. None permitted within 75 feet
 - B. If within 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

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14. Chemical application to ground surface - 200 feet;
Above ground storage - 200 feet;
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 - 1000 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 - 1000 feet
- 10.02 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 of Larchwood, Iowa:
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 - none within 5 feet
 - a. 5-10 feet water main materials enclosed in concrete permitted.
 - b. 10-25 feet must be water main material
 - c. 25-75 feet must be watertight sewer pipe

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5. Floor drains to sewer, water plant wastes, storm or sanitary sewers or drains
 - a. None permitted within 25 feet
 - b. If closer than 75 feet, must be water main material
 - c. If between 75 and 200 feet, must be watertight sewer pipe
6. Force Mains
 - a. None permitted within 75 feet
 - b. If within 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. Chemical application to ground surface - 100 feet; Above ground storage - 100 feet; 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 tanks - 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

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21. Cisterns - 50 feet
22. Cemeteries - 200 feet
23. Private wells - 200 feet
24. Solid waste disposal sites - 1000 feet

10.03 NONCONFORMING USES. The use of structures or facilities existing as of the date of adoption of this ordinance shown below, may be continued even though such use may not conform with the regulations of this article, in other words may be located with the distances set forth. However, such structure or facility which is not in conformance with the terms of this ordinance, may not be enlarged, extended, reconstructed, or substituted subsequent to the date of the adoption of this Ordinance.

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CHAPTER 4: MUNICIPAL ELECTRIC UTILITY

ARTICLE 11 - ELECTRIC

- 11.01 SUPERVISION. The electric system shall be under control of the council.
- 11.02 SUPERINTENDENT. The superintendent of the electric plant shall be appointed by the council and have charge of the electric plant including distribution system, powerhouse, meters and construction and operation of the same.
- 11.03 CLERICAL DEPARTMENT. The clerk shall have charge of the clerical department of the electric system, and shall cause all meters to be read and shall collect or cause to be collected all accounts due for electric current.
- 11.04 MUNICIPAL LIABILITY LIMITED. The municipality does not guarantee a constant supply of electric energy to any customer and shall not be liable for any charges for any failure to supply the same.
- 11.05 RIGHT TO LIMIT SERVICE. No power or heat service, between the hours of five P.M. and eleven P.M. which will be detrimental to satisfactory lighting service will be supplied to any consumer.
- 11.06 SERVICE DISCONTINUED. The municipality reserves the right to, at any time, cut off the supply of electric energy and remove its meter, wires and other appliances to prevent fraud or for any cause permitted by state law and regulations of the Iowa State Commerce Commission.
- 11.07 RENEWAL OF SERVICE FEE. Where service is temporarily discontinued at the request of a customer or on account of non-payment of bill, a charge of twenty-five dollars (\$25.00) will be made for the renewal of service.

If service is disconnected by the request of a renter or on account of non-payment of bill of a renter and the renter requests to be reconnected they would be required to have their delinquent bill paid in full and submit to the City Utility a deposit of 30 days utilities which would not be refunded if the account is delinquent in any month.

(Editor's Note: Ordinance 65, approved by City Council on March 10, 2008, amended Section 11.07)

- 11.08 METERS. All electric current shall be sold by meter and each house, building or other place shall be equipped with a separate meter.

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11.09 BILLING PERIOD FOR ELECTRICAL SERVICE. Billing and payment for electrical service shall be in accordance with the following:

1. METERS READ. Electrical meters shall be read on or about the 20th of each month by the City of Larchwood and the bills for that month shall be sent out on or about the 1st of the following month.
2. PAYMENT AND LATE PAYMENT PENALTY. All water electrical charges billed on or about the 1st day of each month are due on the twentieth (20th) day of each month. Payments not paid on or before the 20th day of each month shall be deemed delinquent and a late penalty of one and one-half (1½%) percent of the amount due shall be added to the delinquent account.
3. ADMINISTRATION FEE. All delinquent utility customers shall be sent a shut off notice and assessed a \$10.00 fee if the payment is not received by 4:00 p.m. on the 21st day of each month. The shut off notice shall provide that the delinquent customer has 12 days in which to pay the past due amount plus the \$10.00 fee, or request in writing, a hearing with the Mayor and/or City Clerk. The \$10.00 fee will be in addition to the late penalty provided for in Paragraph 2 above.

(Editor's Note: Ordinance 48, approved by Council on March 7, 2005, amended Section 11.09)

11.10 RATES. The following monthly rates for electrical service are hereby established.

Residential:

Service Charge \$15.00
Each kilowatt-hour shall be .0865 cents per kilowatt-hour

Commercial:

Service Charge \$15.00
First one thousand (1,000) kilowatt-hours shall be .0865 cents per kilowatt-hour
All remaining kilowatt-hours shall be .0765 cents per kilowatt-hour

Large Power Rate:

Demand Charge of \$14.95 per KW
First one thousand (1,000) kilowatt hours shall be 0.865 cents per kilowatt-hour.
All remaining kilowatt-hours shall be .0765 cents per kilowatt-hour
Minimum charge of \$1.25 per KVA of installed transformer capacity.

(Ordinance 2018-3)

11.11 COMBINATION BILLS. No combination of amounts consumed on separate charges except as herein set out, shall be allowed.

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11.12 METERS INSPECTED. Electric meters shall be inspected periodically as required by the Iowa State Commerce Commission rules, or whenever the superintendent believes that any meter is not registering correctly. If any customer of electric energy believes that his meter is not accurate, he or she may require that his meter be tested and depositing with the city treasurer a sum of one-hundred fifty dollars (\$150.00) as established by ordinance. Should the meter register fast, the customer shall be entitled to a re-adjustment of his bill in accordance with the rules of the Iowa State Commerce Commission on the basis of the over-registration and have the fee for testing refunded to him or her. Should the meter register accurately or low, the meter testing fee so deposited shall be retained by the city as expense for testing the meter.

(Editor's Note: Ordinance 66, approved by Council on March 10, 2008, amended Section 11.12)

11.13 RULES AND REGULATIONS. The superintendent of the electric plant shall prepare detailed written rules and regulations in accordance with the provisions of this chapter and covering matters not set forth herein, subject to the approval of the council by resolution.

11.14 DELINQUENT ACCOUNTS. The City may take one or both of the following courses of action if an account for solid waste collection services becomes delinquent by more than thirty (30) days:

1. The City may discontinue solid waste collection, water, sewer, and/or electric services to the property for which the account is delinquent; provided that prior written notice of the intended action by the City is first sent to the account holder by ordinary mail. The notice shall inform the account holder of the nature of the delinquency and inform the account holder of the opportunity for a hearing before the city council. The notice shall be sent to the account holder at least twelve (12) days before the date intended for the service to be discontinued. If the account holder is a tenant, and if the owner or landlord of the property has made a written request for notice, the same notice shall also be given in the same manner as required to be given to the account holder. If the account holder wishes to appear before the city council, then he or she shall notify the City Clerk in writing of his desire to appear within ten (10) days of the date of the notice sent by the City.
2. The City may certify to the County Treasurer the amount of the delinquent account, which shall become a lien on the property if the following steps have been taken by the City:
 - a. Written notice has been sent by ordinary mail to the account holder at least thirty (30) days prior to certification of the lien to the County Treasurer. The notice shall state the intention of the City to certify to the County Treasurer the amount of the delinquent account, and inform the account holder of the opportunity for a hearing before the

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city council. If the account holder wishes to appear before the city council, then he or she shall notify the City Clerk in writing of his desire to appear within ten (10) days of the date of the notice sent by the City.

- b. If the account holder is a tenant, and the owner or landlord have requested notice, then the same notice shall also be given in the same manner to the owner or landlord as required to be given to the account holder.
 - c. No lien shall be imposed for delinquent charges of less than \$5.00. However, the City may charge an administration fee of up to \$5.00, which amount shall be added to the lien and collected at the time of payment of the assessment.
3. The City may institute civil proceedings in a Small Claims Court to collect the amount of the delinquent account.
 4. Any violation of the provisions of this Chapter shall also constitute a municipal infraction.

11.15 LIEN FOR DELINQUENT ACCOUNTS. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for solid waste collection, water, sewer, and/or electric service charges to the premises. Solid waste collection, water, sewer, and or electric 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)

11.16 COMBINED SERVICE ACCOUNT. The City may combine charges for solid waste collection, water, sewer and/or electric services with other city utility charges. If such a combined service account becomes delinquent, then all services may be discontinued after the required procedures have been followed.

(Editor's Note Sections 11.13, 11.14 and 11.15 were added by Ordinance No. 49, approved by Council on March 7, 2005.)

11.17 INITIAL CONNECTION. The city of Larchwood will supply a 200-amp meter socket with 100' of wire and install it from the transformer. If a new customer wishes for a larger service they will be required to pay the difference, the length of the wire exceeds 100', they will be required to pay \$10.00 per foot extra, if there is frost in the ground there will be an additional \$10 per foot over the whole length of the service. If the service needs to be relocated for any reason, it will be the homeowner's expense.

(Ordinance 2016-1)

TITLE II

CHAPTER 5: TERMS OF ACTIVATING UTILITY SERVICE

ARTICLE 12 – GENERAL PROVISIONS

12.01 REQUIRED ACCOUNT INFORMATION TO ACTIVATE UTILITY ACCOUNT. All resident(s) over the age of 18 , acquiring utility service, must provide the city clerk with the following: name, address, telephone, social security number, photo ID and signatures providing that all resident(s) at the property location are liable for service. Emergency contact and employer information are also required.

(Ordinance No. 7)

TITLE III

TITLE III - PUBLIC ORDER, PROTECTION AND LAW ENFORCEMENT

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 1 - PUBLIC PEACE

1.01 PURPOSE. The purpose of this article is to preserve the public order by defining and prohibiting offenses against the public peace and providing for their abatement.

1.02 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)

1.03 AFFRAY. It shall be unlawful for two (2) or more persons voluntarily or by agreement to engage in any fight, or use any blows or violence towards each other in an angry or quarrelsome manner, in any public place, to the disturbance of others.

1.04 UNLAWFUL ASSEMBLY. An unlawful assembly is three or more persons assembled 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. A person who willingly joins in or remains a part of an unlawful assembly, knowing or having reasonable

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grounds to believe that it is such, commits a simple misdemeanor.
(Code of Iowa, Sec. 723.2)

1.05 **DISORDERLY CONDUCT.** A person commits a simple misdemeanor when the person does any of the following:

1. **FIGHTING.** Engages 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.** Makes loud and raucous noise in the vicinity of any residence or hospital which causes unreasonable distress to the occupants thereof.

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

3. **ABUSIVE LANGUAGE.** Directs abusive epithets or makes 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, the person disturbs 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 REPORTS.** By words or action, initiates or circulates 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 uses 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 STREETS.** Without authority or justification, the person obstructs 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))

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

(Code of Iowa, Sec. 723.2)

- 1.07 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)

- 1.08 TEMPORARY CIVIL DISORDER. The following shall apply:

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

1. **DECLARATION**. The mayor may declare a state of civil disorder within the City or its parts if he or she has reason to believe a riot or other general public disorder may occur as a result of an act of violence or resistance to the lawful exercise of authority, constituting a threat to public peace or general welfare.
2. **TEMPORARY RESTRICTIONS**. The mayor may promulgate all or part of the following restrictions, which shall become effective after reasonable notice of their contents is given and the affected area of the city is specified.
 - a. Order the immediate closing of all taverns and the cessation of the sale or other distribution of intoxicating liquor and beer.
 - b. Order the cessation of public display, sale or any other distribution of firearms and ammunition.
 - c. Order the cessation of the sale or other distribution of explosives or flammables.
 - d. Order the closing of all or some public parks, public streets or other public places during specified hours.
 - e. Order the cessation of gatherings by three (3) or more persons in public buildings, streets, parks or other open areas either public or private.
 - f. Order the cessation of any other activities reasonably believed hazardous to the maintenance of public safety.

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3. **TERMINATION.** Any restriction issued according to this section will automatically terminate forty-eight (48) hours after the mayor's declaration of civil disorder, or upon his declaration that the state of civil disorder no longer exists, whichever occurs first. Any or all restrictions declared by the mayor may be extended by successive resolutions of the council for additional time periods. The period of any one extension shall not exceed five (5) days.
- 1.09 **PARADES.** No person shall conduct or cause any parade on any street except as provided in this section.
1. **DEFINITION.** "Parade" shall mean any march or procession of persons or vehicles organized for marching or moving on the streets in an organized manner, or any march or procession of persons or vehicles represented or advertised generally to the public as a parade.
 2. **PERMIT.** No parade shall be conducted without a written permit obtained from the mayor or city clerk in the mayor's absence. Such permit shall state the time, date and general route of the parade, and no permit fee shall be required. The written permit granted to the sponsors or organizers of the parade shall be permission for participants invited by the permittee to parade. Any denial of a permit may be appealed to the Council.
 3. **PARADE NOT A STREET OBSTRUCTION.** Any parade authorized by a permit and in which the persons are lawfully participating shall not be deemed a street obstruction, notwithstanding the provisions of any other ordinance to the contrary.
 4. **CONTROL BY SHERIFF'S OFFICERS AND FIREMEN.** Parade participants shall be subject at all times to the lawful orders and directions of sheriff's department and fire department members in the performance of their duties.
- 1.10 **NOISE GENERALLY.** It is a violation to disturb the peace with excessive, loud or unusual noise by blowing horns or ringing bells, or by the use of sirens, radios or any type of speaking device or noisemaker.
- 1.11 **TIRE NOISE.** It is unlawful to operate a motor vehicle in such a manner so as to disturb the peace and quiet of any person by causing excessive, loud or unusual noise to come from the tires of said vehicle.

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1.12 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, 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.

1.13 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 a simulated explosive or simulated incendiary device in or near a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.
(Code of Iowa, Sec. 708.7)
 - c. Orders merchandise or services in the name of another, or to be delivered to another, without the 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 act 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.
(Code of Iowa, Sec. 708.7(2))

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1.14 DISORDERLY HOUSE.

1. Definition. The term “disorderly house” means any structure or any room therein, or any part of the premises adjacent therefrom, in or upon which occurs any disorderly conduct as defined in Section 1.05 of this Article or any of the following prohibited activities:
 - a. The open storage, use or consumption of a controlled substance as defined in Chapter 124 of the Iowa Code, under which possession of such substance would be an offense;
 - b. Gambling in violation of Chapter 99B of the Iowa Code;
 - c. Dispensing, selling or consumption of an alcoholic beverage in violation of Chapter 123 of the Iowa Code;
 - d. Acts of prostitution, pimping or pandering as defined in Chapter 725 of the Iowa Code;
 - e. Engaging in a massage therapy business without a license.
2. Keeping a Disorderly House. It is unlawful for any person to knowingly keep a disorderly house as defined in this section. For purposes of this section, “keep” means ownership or having the control of a structure or a room therein or any part of the adjacent premises.
3. Frequenting or Being Found in a Disorderly House. It is unlawful for any person to frequent or be found in a disorderly house as defined in this section.

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

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 2 - PUBLIC MORALS

- 2.01 PURPOSE. The purpose of this article is to preserve the public order by defining and prohibiting offenses against public morals and providing for their abatement.
- 2.02 PROSTITUTION. It shall be unlawful for any person to engage in, assist, or in any manner promote prostitution within the city.
- 2.03 BLASPHEMOUS OR OBSCENE LANGUAGE. It shall be unlawful for a person to use blasphemous or obscene language publicly, to the disturbance of the public peace and quiet.
- 2.04 INTOXICANTS AND INTOXICATION. The following shall be unlawful:
1. ILLEGAL KEEPING OF INTOXICANTS. To operate, conduct, or allow to be operated a place where intoxicating liquor is illegally kept, sold or given away.
 2. CONSUMPTION IN PUBLIC PLACES. 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 a public or private school-related function. A person shall not be intoxicated in a public place.
(Code of Iowa, Sec. 123.46)
 3. SIMULATE INTOXICATION. A person shall not simulate intoxication in a public place.
(Code of Iowa, Sec. 123.46)
- 2.05 INDECENT EXPOSURE. No person shall expose those parts of his or her body listed herein to another in any public place, or in any place where such exposure is seen by another person or persons in any public place.
1. PROHIBITION. Exposure of the following in a public place is prohibited:
 - a. A woman's nipple, or aureole, or full breast, except as necessary in the feeding of any infant under the age of thirty-six (36) months.
 - b. The pubic hair, pubes, perineum, or anus of a male or female, the penis or scrotum of a male, or the vagina of a female, excepting those body parts of an infant of either sex.

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2. EXEMPTION. This section shall not apply to limited or minimal exposures incident to the use of public restrooms or locker rooms or other such places where such exposures occur incident to the prescribed use of those facilities, nor shall it apply to exposures occurring in live stage plays, live theatrical performances, or live dance performances conducted in a theatre, concert hall or similar establishment which is primarily devoted to theatrical performances.

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CHAPTER 1: MISDEMEANORS

ARTICLE 3 - MINORS

3.01 DEFINITIONS. The following terms shall have the meanings defined below:

1. "MINOR" shall mean a person less than eighteen (18) years of age.
2. "LEGAL AGE" shall be as set forth in section 123.3(33) and 123.47A of the Code of Iowa.

3.02 MINORS IN TAVERNS. It shall be unlawful for any person to sell, give or otherwise supply liquor or beer to any person under legal age, or knowingly to permit any person under that age to consume alcoholic liquors or beers, except in the case of alcoholic liquor or beer given or dispensed to a person, age nineteen or twenty, within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to the person by a physician or dentist for medicinal purposes.

(Code of Iowa, Sec. 123.47A)

3.04 CURFEW. A curfew is established to regulate the hours minors can be or remain upon the alleys, streets, other public places, and in places of business and amusement in this city. The following shall pertain to the curfew:

1. TIME LIMITS. It is unlawful for any minor to be or remain in or upon any of the alleys, streets or public places or places of business and amusement in the city between the hours of 11 p.m. and 5 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday, and Thursday and between the hours of 12 a.m. and 5 a.m. on Friday and Saturday.
2. EXCEPTIONS. The restriction provided by subsection 3.04(1) shall not apply to any minor who is accompanied by a guardian, parent or other person charged with the care and custody of such minor, or other responsible person over 18 years of age, nor shall the restriction apply to any minor who is traveling between his home or place or residence and the place where any approved place of employment, church, municipal or school function is being held.
3. RESPONSIBILITY OF ADULTS. It is unlawful for any parent, guardian or other person charged with the care and custody of any minor to allow or permit such minor to be in or upon any of the streets, alleys, places of business, or amusement or other public places within the curfew hours set by subsection 1, except as otherwise provided in Subsection 2.

(Code of Iowa, Sec. 613.16)

TITLE III

4. **RESPONSIBILITY OF BUSINESS ESTABLISHMENTS.** It is unlawful for any person, firm or corporation operating a place of business or amusement to allow or permit any minor to be in or upon the place of business or amusement operated by them within the curfew hours set by subsection 1, except as otherwise provided in subsection 2.
 5. **ENFORCEMENT.** Any peace officer of this city while on duty is empowered to arrest any minor who violates any of the provisions of this section. Upon arrest, the minor shall be returned to the custody of the parent, guardian or other person charged with the care and custody of the minor. If a minor violates the provisions of this section more than two (2) times within a twelve (12) month period, the peace officer shall charge the minor with a simple misdemeanor and prosecute the charge before a magistrate having jurisdiction.
- 3.05 **CIGARETTES AND TOBACCO.** It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase or attempt to purchase any tobacco, tobacco products or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the Code of Iowa and lawfully offers for sale or sells cigarettes or tobacco products.
(Code of Iowa, Sec. 453A.2)
- 3.06 **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)
- 3.07 **SUPPLYING LIQUOR TO MINORS.** It shall be unlawful for any person to sell, give or otherwise supply liquor or beer to any person under legal age, or knowingly to permit any person under that age to consume alcoholic liquors or beers, except in the case of alcoholic liquor or beer given or dispensed to a person, age nineteen or twenty, within a private home and with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered to the person by a physician or dentist for medicinal purposes.
(Code of Iowa, Sec. 123.47A)

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 4 - PUBLIC HEALTH AND SAFETY

4.01 PURPOSE. The purpose of this article is to preserve the public order by defining and prohibiting offenses against public health and safety and providing for their abatement.

4.02 Reserved for Future Use.

4.03 DISCHARGING WEAPONS. It shall be unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns or firearms of any kind within the city limits except by authorization of the council or a police officer in the line of duty. No person shall intentionally discharge a firearm in a reckless manner.

4.04 FIREWORKS:

1. DEFINITION. For purposes of this section, definitions are enumerated in the Iowa Code Section 727.2, which definitions are incorporated herein by reference.
(Code of Iowa, Sec. 727.2)

2. SALES—GENERAL REQUIREMENTS.

A. Prior to any person engaging in the sale of consumer fireworks, the following shall be provided to the City Clerk.

- 1) License: Proof of valid license issued from the state fire marshal.
- 2) Liability Insurance: Proof of liability insurance separate from the building property insurance specifically showing coverage of fireworks sales for an aggregate amount of \$2,000,000.00.

B. Dates of Sale: Consumer firework sales shall only be conducted in accordance with the dates and times designated by Iowa Code Section 727.2. It shall be unlawful to sell consumer fireworks without meeting the requirements specified in this Ordinance, or to sell fireworks outside of the dates specified.

- 1) Approved consumer firework sales meeting requirements of the Code of the State of Iowa shall be allowed from any permanent structure or building June 1 until July 8 and from December 10 until January 3.
- 2) Approved consumer firework sales meeting the requirements of the Code of the State of Iowa shall be allowed in an approved temporary structure from June 13 until July 8.

TITLE III

C. Limitations on Sales.

- 1) Consumer firework sales shall only be allowed in the area zoned for commercial use pursuant to the City of Larchwood Zoning and Subdivision Ordinance.
- 2) No person shall sell a DOT 1.4 class consumer firework to any person under the age of 18.
- 3) Consumer fireworks shall not be sold to an intoxicated person or to any person whom a reasonable person would believe may be impaired by any other substance.

3. DISCHARGING FIREWORKS— GENERAL REQUIREMENTS

- A. No person under the age of 18 shall discharge a DOT 1.4 class consumer firework without parental supervision.
- B. A person shall only discharge a consumer firework device on real property they own or on property where consent has been given. Novelties, including snakes, sparklers or caps, can be discharged on a public place so long as all trash, wrappers, and wires are properly disposed of.
- C. Consumer fireworks shall not be discharged by persons showing visible signs of, or determined to be, intoxicated or under the influence of a drug or narcotic.
- D. Any person discharging a consumer firework device assumes all responsibility for its operation and the consequences thereof. No person shall discharge a consumer firework device in a reckless manner or manner likely to cause death, injury, fire or property damage.
- E. No person shall discharge a consumer fireworks device outside the following dates and hours:
 - 1) June 29 through July 7 from the hours of 9:00 AM until 10:00 PM. Exception: discharge hours are extended to 11:00 PM on July 4th only.
 - 2) December 28 through January 3 from the hours of 9:00 AM until 10:00 PM. Exception: discharge hours are extended to 12:30 AM on January 1st only.
- F. It shall be unlawful to alter, remove, or discharge components of a consumer fireworks device from its intended method of discharging.

TITLE III

G. The City may, upon application in writing, grant a permit for the display of display fireworks on public property by a City agency and other organizations or groups of individuals approved by City authorities when such display 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:

- 1) Personal Injury: \$250,000.00 per person.
- 2) Property Damage: \$50,000.00
- 3) Total Exposure: \$1,000,000.00

4. VIOLATIONS. All violations of any provisions of this chapter are hereby declared a simple misdemeanor with a fine not to exceed \$250.00. Violations of this chapter will also be reported to the state fire marshal.

5. 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 shown or theater, or for signal purposes in athletic sports, or by a recognized military organization. This section does not apply to any substance or composition prepared and sold for medicinal or fumigation purposes.

(Editor's Note. Section 4.04 Fireworks was amended by Ordinance 2029-5)

4.05 FALSE ALARMS.

1. By words or action, initiates or circulates 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))

2. A person who reports or causes 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 who reports the alleged occurrence of a criminal act knowing the act did not occur.

(Code of Iowa 718.6(1))

3. A person who telephones an emergency 911 communications center knowing that the person is not reporting an emergency or otherwise needing emergency information or assistance.

(Code of Iowa 718.6(2))

TITLE III

- 4.06 THROWING AND SHOOTING. It shall be unlawful for a person to throw stones or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles or other dangerous instruments or toys on or across any street, highway, alley, sidewalk or public place.
- 4.07 STENCH BOMBS. It shall be unlawful to throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, upon or about any theatre, restaurant, car, structure, place of business or amusement, or any place of public assemblage, or to attempt to do any of these acts, or to prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, prison officials or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this state nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.
(Code of Iowa, Sec. 724.1)
- 4.08 SPITTING. It shall be unlawful for a person to spit within any food establishment, restaurant, hotel, motor inn, cocktail lounge or tavern.
- 4.09 SALE OF TAINTED FOOD. It shall be unlawful for a person to sell or offer for sale any tainted, unsound or rotten meat, fish, fowl, fruit, vegetables, eggs, butter, canned goods, packaged goods, or other articles of food, or to sell or offer for sale the flesh of any animal that was diseased.
- 4.10 ABANDONED REFRIGERATORS. It shall be unlawful to place, or to allow to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box or similar container equipped with an airtight door or lid, snap lock, or other locking device which cannot be released from the inside, in a location accessible to children, outside any building, dwelling, or within an unoccupied or abandoned building or dwelling, or structure, under his or their control without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator or similar container. This provision applies equally to the owner of any such refrigerator, ice box or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain.
(Iowa Code, Sec. 727.3)
- 4.11 ANTENNA AND RADIO WIRES. It shall be unlawful for a person to allow antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk, or public property.
(Code of Iowa, Sec. 364.12(2))

TITLE III

- 4.12 BARBED WIRE AND ELECTRIC FENCE. It shall be unlawful for a person to use barbed wire or electric fence to enclose land within the city limits without the consent of the council unless such land consists of ten acres or more and is used as agricultural land.
- 4.13 URINATION AND DEFECATION. It shall be unlawful for any person to urinate or defecate in or upon any street, sidewalk, alley, public place 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.
- 4.14 DISTRIBUTING DANGEROUS SUBSTANCES. Any person who distributes samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance, commits a simple misdemeanor 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)

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 5 - PUBLIC PROPERTY

- 5.01 PURPOSE. The purpose of this article is to define and prohibit offenses against public property and provide for their abatement.
- 5.02 DEFACING PUBLIC GROUNDS. It shall be unlawful for a person to cut, break or deface any tree or shrub on public property or on any public way by willfully defacing, cutting, breaking or injuring.
(Code of Iowa, Sec. 364.1 and 364.12(2))
- 5.03 DAMAGE TO PUBLIC OR UTILITY PROPERTY. It shall be unlawful for a person to maliciously injure, remove, or destroy any railway or apparatus belonging thereto; or any bridge or railroad; or place, or cause to be placed, any obstruction on any railway, or on any bridge or railroad; or willfully obstruct or injure any public road or highway; or maliciously cut, burn or in any way break down, injure, or destroy any post or pole used in connection with any system of electric transmission or distribution, electric railway, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way cut, break, or injure the wires, mains, pipes, conduits, meters, or other apparatus belonging to, or attached to, the power plant or distribution system of any electric light plant, electric motor, gas plant, or water plant; or to aid or abet any other person in so doing.
(Code of Iowa, Sec. 716.1)
- 5.05 DEFACING PROCLAMATIONS OR NOTICES. It shall be unlawful for a person to intentionally deface, obliterate, tear down, or destroy in whole or in part, any transcript or extract from or of any law of the United States or this 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)
- 5.06 INJURY TO FIRE APPARATUS. It shall be unlawful for a person to willfully destroy or injure any engine, hose, hook and ladder truck, or other thing used and kept for extinguishment of fires.
- 5.07 DESTROYING PARK EQUIPMENT. It shall be unlawful for a person to destroy or injure any property or equipment in public swimming pools, playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.
(Code of Iowa, Sec. 716.1)

TITLE III

- 5.08 INJURING NEW PAVEMENT. It shall be unlawful for a person to destroy or injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready to use.
- 5.09 CRIMINAL MISCHIEF. Any damage, defacing, alteration, or destruction of property is criminal mischief when done intentionally by one who has no right to so act.
- 5.10 OBSTRUCTING DRAINAGE. It shall be unlawful to divert, obstruct, impede, or fill up, without legal authority any ditch, drain, or watercourse, or to break down any levee lawfully established, constructed or maintained.
- 5.11 SIDEWALKS AND RIGHT-OF-WAY. It shall be unlawful for a person to damage public right-of-way or sidewalks, dig into or in any manner break any sidewalk, curb, pavement, street, alley or public ground without replacing the same in as good condition as found.
- 5.12 INJURY TO CEMETERY PROPERTY. It shall be unlawful for a person to willfully and maliciously destroy, mutilate, deface, injure or remove any tomb, vault, monument, gravestone or other structure placed in any public or private cemetery or other fences, railing or other work for the protection or ornamentation of said cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or to willfully and maliciously throw or leave any rubbish, refuse, garbage, waste, or to drive at an unusual and forbidden speed over avenues or roads in said cemetery, or to drive outside of said avenues and roads, and over the grass or graves of said cemetery.

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 6 - PRIVATE PROPERTY

6.01 **TRESPASSING.** It is unlawful for a person to knowingly trespass onto the property of another. As used in this section, the term "*property*" shall include 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:

1. **ENTER PROPERTY WITHOUT PERMISSION.** Enter upon or in private property without legal justification or without the implied or actual 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, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(Code of Iowa, Sec. 716.7)

2. **VACATE PROPERTY WHEN REQUESTED.** Enter or remain upon or in private property without legal 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)

3. **INTERFERE WITH LAWFUL USE OF PROPERTY.** Enter upon or in private 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)

4. **USE OF PROPERTY WITHOUT PERMISSION.** Be upon or in private property and use, remove therefrom, alter, damage, harass, or place 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)

The term "*trespass*" shall not mean entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property.

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

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6.02 DAMAGE TO PROPERTY. It shall be unlawful to cut, hack, break, deface or otherwise injure any ornamental or shade tree, fence, private building, railing or other property.

(Code of Iowa, Sec. 716.1)

6.03 TELEPHONE OR COMMUNICATION WIRE TAP Any person, having no right or authority to do so, who taps into or connects a listening or recording device to any telephone or other communication wire, or who by any electronic or mechanical means listens to, records, or otherwise intercepts a conversation or communication of any kind, commits a serious misdemeanor; provided, that the sender or recipient of a message or one who is openly present and participating in or listening to a communication shall not be prohibited hereby from recording such message or communication; and further provided, that nothing herein shall restrict the use of any radio or television receiver to receive any communication transmitted by radio or wireless signal.

(Code of Iowa, Sec. 727.8)

6.04 THEFT. No person shall take possession or control of the property of another, or property in the possession of another, with the intent to deprive the other thereof.

TITLE III

CHAPTER 1: MISDEMEANORS

ARTICLE 7 - EXECUTION OF PROCESS

- 7.01 RESISTING EXECUTION OF PROCESS. It shall be unlawful for a person to knowingly or willfully resist or oppose any officer of this state, or any person authorized by law in serving or attempting to execute any legal writ, rule, order or process whatsoever, or to knowingly and willfully resist any such officer in the discharge of the officer's duties without such writ, rule, order or process.
(Code of Iowa, Sec. 719.1)
- 7.02 RESISTING ARREST. It shall be unlawful for a person after being informed of the intention to arrest the person, to attempt to escape or forcibly resist when arrest is being made by an officer under the authority of a warrant.
(Code of Iowa, Sec. 804.12)
- 7.03 REFUSING TO ASSIST AN 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. A person who, unreasonably and without lawful cause, refuses or neglects to render assistance when so requested commits a simple misdemeanor.
(Code of Iowa, Sec. 719.2)
- 7.04 INTERFERENCE WITH OFFICIAL ACTS. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider under Chapter 147A, Code of Iowa, 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 under Chapter 147A Code of Iowa, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a simple misdemeanor. In addition to any other penalties, the punishment imposed for a violation of this subsection shall include assessment of a fine of not less than two hundred fifty dollars (\$250.00).
(Code of Iowa, Sec. 719.1)
- 7.05 INTERFERENCE WITH CITY OFFICERS. It shall be unlawful for a person to interfere with or hinder any peace officer, fireman, officer, or City official in the discharge of his or her duty.
- 7.06 IMPERSONATING PEACE OFFICER OR EMPLOYEE – UNIFORM. Any person who impersonates a peace officer or employee of the department, or wears a uniform likely to be confused with the official uniform of any such officer or

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employee, with intent to deceive anyone, shall be guilty of a simple misdemeanor.

(Code of Iowa, Sec. 80.6)

- 7.07 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. Any person who willfully prevents or attempts to prevent any public officer or employee from performing that officer's or employee's duty is guilty of harassment of public officers and employees.

(Code of Iowa, Sec. 718.4)

TITLE III

CHAPTER 2: MUNICIPAL INFRACTIONS

ARTICLE 8 - MUNICIPAL INFRACTION

8.01 DEFINITIONS.

1. Municipal infractions: Any violation of the City Code of Larchwood, Iowa, is a municipal infraction, EXCEPT any violation which is a felony, an aggravated misdemeanor, or a serious misdemeanor under state law, or any violation which is a simple misdemeanor under Chapters 687 through 747 of the Code of Iowa.
2. Officer: The term officer shall mean any employee or person authorized to enforce the ordinances and the City Code of Larchwood, Iowa.
3. Repeat Offense: A repeat offense is any recurring violation of the same section of the ordinances or the City Code of Larchwood, Iowa.
(Code of Iowa, Sec. 364.22)

8.02 PENALTIES.

1. A municipal infraction is a civil offense punishable as provided in the following schedule of civil penalties:

Schedule of Civil Penalties

First offense	\$ 750.00
Each repeat offense	\$1,000.00

However, 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 may be punishable by a civil penalty of not more than \$1,000.00 for each day a violation exists or continues.

2. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.
3. Seeking a civil penalty as authorized in the above provisions 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)

TITLE III

4. A municipal violation 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:
 - a. 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.
 - b. The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.
 - c. The violation does not continue in existence for more than eight (8) hours.

8.03 CIVIL CITATIONS.

1. Any officer authorized by the city to enforce the City Code or ordinances may issue a civil citation to a person who commits a municipal infraction.
2. The citation may be served by personal service as provided in Iowa Rule of Civil Procedure 56.1, or by certified mail addressed to the defendant at the defendant's last known mailing address, return receipt requested, or by publication in the manner provided in Iowa Rule of Civil Procedure 60 and subject to the conditions of Iowa Rule of Civil Procedure 60.1.
3. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the clerk of district court.
4. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
 - a. The name and address of the defendant.
 - b. The name or description of the infraction attested to by the officer issuing the citation.
 - c. The location and time of the infraction.
 - d. The amount of civil penalty to be assessed or the alternate relief sought, or both.
 - e. The manner, location, and time in which the penalty may be paid.
 - f. The time and place of court appearance.
 - g. The penalty for failure to appear in court.
 - h. The legal description of the affected property, if applicable.

(Code of Iowa, Sec. 364.22)

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8.04 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 connection with the Department of Natural Resources, or both, may be classified as an environmental violation. However, the provision of this section shall not be applicable until the City has offered to participate in informal negotiations regarding the violation or 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 the industrial production or manufacturing of grain products of if such discharge occurs from September 15 to January 15.

8.05 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 relief may include, but it not limited to, an order for abatement or injunctive relief.

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

8.06 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 the criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of the Code of Ordinances by criminal sanctions or other lawful means.

(Code of Iowa, Sec. 364.22)

8.07 PROHIBITION AGAINST FURTHER VIOLATIONS. A person who commits an infraction of a City ordinance subject to the provisions of this chapter may be ordered by the Court to cease further violations of the same provisions of the ordinance. Failure of the person to adhere to this order will result in contempt proceedings being initiated by the City.

TITLE III

CHAPTER 3: NUISANCES

ARTICLE 9 - GENERAL PROVISIONS

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

1. "NUISANCE" shall mean whatever is injurious to health, indecent or offensive to the senses or an obstacle to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property. The following are declared to be nuisances:
(Code of Iowa, Sec. 657.1)
2. "PROPERTY OWNER" shall mean the contract purchaser if there is one of record, otherwise the record holder of legal title.
(Code of Iowa, Sec. 364.12(1))

9.02 DEFINITIONS. 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))

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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.
(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.
(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. Dutch Elm Disease. Trees infected with Dutch Elm Disease.
(Also See Title VI, Chapter 3 Trees)
(Code of Iowa, Sec. 657.2(12))
11. Emerald Ash Borer Disease. Trees infected with Emerald Ash Borer Disease.

(See also Title VI, Chapter 3)
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. Maintenance of Premises. Premises maintained in a manner causing substantial diminution in the value of other property in the neighborhood in which such premises are located.

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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. Livestock. Keeping farm animals and fowl within the City limits, including (but not limited to) ducks, geese, chickens, turkeys, cattle, goats, swine, buffalo, horses and ponies is prohibited, unless the property owner has received written authorization from the Larchwood City Council.
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. No person shall store or permit to be stored dirt, sand, gravel, debris or similar materials on a property unless said dirt or other materials shall be leveled and the lot brought to uniform grade consistent with surrounding lots. As an exception to the foregoing, the following uses are permitted:
 - a. Materials stored in bulk which are to be used as a part of the normal operations of a legally permitted landscaping business for use on other lots or to be sold on premises.
 - b. Dirt, sand, gravel and other materials may be stored in mounds for a period not to exceed four (4) months on a property in anticipation of construction on that lot, or in connection with construction on a neighboring lot, but for no other purpose.
21. Failure to establish a permanent cover of perennial grasses on any non-farm property or adjacent unpaved public right-of-way as soon as practical after any construction on the lot and adjacent right of way, and to thereafter

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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. Additionally, if permanent grass cover fails to establish itself on the right of way, due to road salt, sand and other winter maintenance procedures, then ornamental rock cover may be established, subject to the approval of the City Clerk and/or designee.

22. 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.
23. 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.
24. 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.
25. 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.
26. Rats and Other Vermin. An infestation of rats or other vermin in or upon any premises.
27. Spreading Disease. The exposure of any person to any communicable disease by unlawful act or practice.

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28. Unlawful Manufacture of Drugs. The unlawful manufacture, formulation, sale, distribution, and/or use of drugs, medication, devices, materials and/or chemicals.
29. 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.
30. 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.
31. 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.
32. 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

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property of said person or inhabitant.

33. 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.
34. 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.
35. Abandoned Objects. Abandoned, discarded or unused objects or equipment such as automobiles, furniture, appliances, cans or containers.
36. Obstruction of drainage. Any article or substance placed upon any street, alley, sidewalk, public ground or in any ditch, waterway or gutter so as to obstruct the same.
37. Obstruction of view. All trees, hedges, billboards, advertisement signs or other obstructions which prevent persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle driven at a reasonable speed to a full stop before the intersection is reached.
38. Septic effluent. Effluent from a septic tank or drainage field running or ponding on the ground in the open, including in ditches.
39. Abandoned Appliances. Abandoning or otherwise leaving unattended any refrigerator, ice box, or similar container, with doors that may become locked, outside of buildings and accessible to children, or allowing any such refrigerator, ice box or similar container, to remain outside of buildings on premises in the person's possession or control, abandoned or unattended and so accessible to children.
40. Poison. The deposit of any poisonous material or thing on any premises, so as to allow access to it by any animal or person.
41. Any sign or sign structure which is structurally unsafe, or constitutes a hazard to safety or health by reason of its location, inadequate maintenance or dilapidation, or is not kept in good repair, or is capable of causing electric shocks to persons likely to come in contact with it, or which obstructs free

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- ingress or egress from a required door, window, fire escape or other required exit-way.
42. Signs accessible to the general public containing statements, words or pictures of an obscene or pornographic character.
 43. Residential or non-residential structures, the condition of which constitutes a hazard to safety or to health as determined by the enforcement official or his or her designee.
 44. Discharge of water upon or under public streets or sidewalks by reason of faulty water service.
 45. Noise Pollution. Any sound which disturbs human or which causes or tends to cause an adverse psychological or physiological effect on humans.
 46. Litter. Any decomposable or non-decomposable solid or other waste material.
 47. Structures damaged by Fire or Decay. All buildings and other structures which have been damaged by fire, decay or otherwise to an extent exceeding one-half (1/2) of their original value and which are so situated as to endanger the safety of the public.
 48. Permitting or allowing the illumination of flood lights, yard lights or similar lights to be focused in such a fashion so as to encroach upon the peaceful enjoyment of neighboring property.
 49. Fences or retaining walls that are not structurally sound or which are deteriorating, as may be evidenced by leaning or loose or missing elements.
 50. BUILDING MAINTENANCE. All buildings shall be maintained to be weather and watertight. Broken windows, holes in roofs, and missing siding shall be replaced with similar materials to maintain the weather and watertight properties of the structure. All wood including floorboards, decking, subfloors, joists, rafters, roof sheathing, and siding shall be replaced when missing, rotted or damaged. Materials and practices used in reconstruction and residing shall be of standard quality and appearance commensurate with the character of house or building. Their appearance, as judged under prevailing appraisal practices and standards. Owners or responsible parties shall not use materials which would depreciate the value of adjoining premises or the neighborhood. Painted surfaces shall be maintained or repainted so that an individual wall surface does not have peeling or missing paint in areas in excess of fifty percent (50%) of that individual surface area.

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51. Missing or torn, ripped, tattered, canvas, plastic, fabric or non-permanent material of a temporary storage structure (membrane storage structure) or missing, broken or dilapidated aluminum or steel support structures of such temporary structure (commonly referred to as hoop building or tent garages). The City's zoning ordinance may prohibit such temporary portable accessory storage structures.
52. 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.
53. Grasses, Weeds, Brush or Dense Growth. Dense growth of all weeds, grasses, vines, brush or other vegetation in the city so as to constitute a health, safety or fire hazard.

"Dense Growth" is defined as any vegetation exceeding six (6) inches in length from May 1 to October 31. No other notice will be given before the City will abate the nuisance and bill the property owner.

(Editor's Note: Section 9.02(53) was amended by Ordinance No. 69, approved by City Council on September 3, 2008)

54. Farm Animals & fowl. Except in areas zoned Agricultural, the keeping within the City limits of farm animals and fowl, including, but not limited to, ducks, geese, turkeys, cattle, goats, swine, sheep, buffalo, horses and ponies (Chickens excluded).

While the city permits domestic fowl to be kept under private ownership, in very regulated in limited circumstances within the city of large wood, primary fix dwellings for poultry, including domestic female chickens raise for home use and within the city limits must be:

1. Located only in the backyard, not closer than 40 feet from any neighboring dwelling houses. Space
2. Limited to no more than six (hens).
3. Limited to poultry not generally considered excessively noisy - roosters are prohibited.
4. No person shall keep chickens inside a family dwelling unit.
5. No person shall keep chickens on a vacant or uninhabited track of land.
6. Chickens must be kept in an enclosure or fenced area at all times. Chicken shall be secured within a hen house or chicken tractor during non-daylight hours.

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7. Enclosure must be kept in a clean, dry, order free, neat and sanitary condition at all times.

Feed and Water. Chickens shall be provided with access to feed and clean water at all times. The feed and water shall be unavailable to rodents, wild birds and predators.

Chickens at Large. The owner shall not allow their chickens to roam off the permitted track of land. No dog or cat or other domesticated animal which kills a chicken off the permitted track of land will, for that reason alone, not be considered a dangerous or aggressive animal or the city's responsibility to enforce its animal control provisions.

Nuisances. Any violation of the terms of this chapter shall constitute a health hazard or that interferes with the use or enjoyment of neighboring property is a nuisance and may be abated under general nuisance abatement provisions of the City of Larchwood.

(Editor's Note: Section 9.02(54) Farm Animals & Fowl, was amended by Ordinance 2017-6)

- 9.03 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.
- 9.04 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.
- 9.05 OTHER CONDITIONS REGULATED. The following actions are required and may also be abated in the manner provided in this chapter:
 1. REMOVAL OF DISEASED TREES. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.
(Code of Iowa, Sec. 364.12(3b))
 2. REMOVAL OF STRUCTURES. The removal, repair or dismantling of a dangerous building or structure.
(Code of Iowa, Sec. 364.12(3c))
 3. NUMBERING OF BUILDINGS. The numbering of buildings.
(Code of Iowa, Sec. 364.12(3d))
 4. DRAINAGE CONNECTIONS. The connection to public drainage systems from abutting property when necessary for public health or safety and

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protection of property.

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

5. **SANITARY FACILITIES.** The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.
(Code of Iowa, Sec. 364.12(3f))
6. **DESTRUCTION OF WEEDS.** The cutting or destruction of weeds or other growth which constitutes a health, safety or fire hazard.
(Code of Iowa, Sec. 364.12(3g))

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CHAPTER 3: NUISANCES

ARTICLE 10 - ABATEMENT PROCEDURE

10.01 NUISANCE ABATEMENT. Whenever the mayor or other authorized municipal officer finds that a nuisance exists or a condition needs to be corrected, he or she 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))

10.02 NOTICE TO ABATE. The notice to abate shall contain:

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

1. DESCRIPTION OF NUISANCE. A description of what constitutes the nuisance or other condition.
2. LOCATION. The location of the nuisance or condition.
3. ACTS NECESSARY TO ABATE. A statement of act or acts necessary to abate the nuisance or condition.
4. REASONABLE TIME. A reasonable time within which to complete the abatement.
5. ASSESSMENT AT 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 if and assess the costs against such person.

10.03 METHOD OF SERVICE. The notice may be in the form of an ordinance, certified mail, or personal service to the property owner.

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

10.04 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.

10.05 ABATEMENT IN EMERGENCY. If it is determined that an emergency or danger 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

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notice. The council shall assess the costs after notice to the property owner and hearing on the costs incurred by the city to abate the nuisance or condition.

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

10.06 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))

10.07 COSTS OF ABATEMENT. The following shall apply to abatement procedure:

1. **COLLECTION**. The clerk shall send a statement of the total expense incurred by certified mail to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the clerk shall certify the costs to the county auditor and it shall then be collected with and in the same manner as general property taxes.

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

2. **INSTALLMENT PAYMENT**. If the amount expended to abate the nuisance or condition exceeds \$500, the city shall 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)

3. **FEE**. The fee for the City to abate the nuisance of Grasses, Weeds, Brush or Dense Growth as set forth in Title III, Chapter 2, Section 9.02(53) is set at \$75.00 per hour.

(Editor's Note: Section 10.07(3) was amended by Ordinance 69, which was approved on September 17, 2008)

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

5. 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.

6. Any violation of the provisions of this Chapter shall also constitute a Municipal infraction.

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10.08 PROSECUTION.

1. MUNICIPAL INFRACTION. In lieu of the foregoing abatement procedures, the City may choose to treat an unabated nuisance as a municipal infraction violation of this Chapter, punishable as provided in Title III, Chapter 2, Article 8, of this Code.
2. SIMPLE MISDEMEANOR. In lieu of the foregoing abatement procedures, the City may choose to treat an unabated nuisance as a simple misdemeanor violation of this Chapter, punishable as provided in Title I, Chapter 1, Article 1, of this Code.

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CHAPTER 4: ANIMAL CONTROL AND PROTECTION

ARTICLE 11 - GENERAL PROVISIONS

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

1. "ANIMAL" shall mean all living creatures not human.
2. "AT LARGE" shall mean any animal found off the premises of his owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel. Any animal off the premises of its owner and on other premises against the wishes of the person in possession of such other premises or upon the public streets, alleys, public grounds, school grounds or parks within the city. An animal shall not be deemed at large if:
 - a. the animal is on the owner's property or a neighbor's property with that neighbor's consent; or
 - b. the animal is confined in a cage or motor vehicle; or
 - c. the animal is restrained by a leash of sufficient strength to control its action; or
 - d. a dog is actively engaged in training in dog obedience, for hunting or for other service under continual control of his owner or trainer provided that the owner or trainer is conducting the training in an open public area, is not endangering other users or animals in the area, has the dog within 30 yards and under continual voice control and has in his/her possession a dog leash appropriate to control the dog.
 - e. the animal is a draft animal engaged in drawing vehicles or conveyances.
3. "CATS": Includes both male and female domestic cats whether altered or not.
4. "DOG" shall mean both male and female animals of the canine species whether altered or not.
5. "OWNER" shall mean any person owning, keeping, sheltering, or harboring an animal.

(Code of Iowa, Sec. 351.2)

11.02 CRUELTY TO ANIMALS. It shall be unlawful for a person to torture, torment, deprive of necessary sustenance, mutilate, overdrive, overload, drive when overloaded, cruelly kill any animal, or unnecessarily fail to provide the same with proper food, drink, shelter, or protection from the weather, or drive or work the

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same when unfit for labor, or cruelly abandon the same, or carry the same, or cause the same to be cruelly carried on any vehicle or otherwise, or to commit any other act or omission by which unjustifiable pain, distress, suffering, or death is caused or permitted to any animal, whether the acts or omissions herein contemplated be committed either intentionally or negligently.

(Code of Iowa, Sec. 717.2 and 717.3)

11.03 ANIMAL CONTESTS. It shall be unlawful for a person to keep or use, or in any way be connected with, or be interested in the management of, or receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, or other creature, or to engage in, aid, abet, encourage, or assist in any bull, bear, dog, or cock fight, or a fight between any other creatures.

(Code of Iowa, Sec. 717.3)

11.04 ANIMALS RUNNING AT LARGE. It shall be unlawful for any owner to allow dogs, cattle, horses, swine, sheep or other similar animals or fowl to run at large within the corporate limits of the city.

1. All dogs and cats, regardless of age, must be leashed at all times unless confined by a tether or within or on owner's property. If the owner is present and supervising the animal on the owner's premises an exception to the leash law is made. Dogs and cats must not be tied and left unattended when off the owner's property. Unleashed pets accompanied by their owner while jogging, cycling, visiting parks or anywhere on public property are in violation of the law. Pets are not to be tethered to public property.

If a dog or cat strays, it can be impounded and the owner or keeper can be cited for having an "Animal at Large". The citation is a summons to Court with the punishment and/or fine determined by the judge. A pet that is impounded is not being punished... it's being protected.

2. DOGS OR CATS HABITUALLY AT LARGE. It shall be unlawful for any person to keep within the City any dog or cat for which the owner has been fined three times within a twelve (12) month period under Title III, Chapter 3 of the Larchwood City Code.

11.05 BOTHERSOME ANIMALS. It shall be unlawful for a person to keep within the city such bothersome animals as barking dogs, bees, cattle, horses, swine and sheep, or other animals which tend to disrupt the peace and good order of the community.

11.06 DAMAGE OR INTERFERENCE. It shall be unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another if it thereby causes damage to, or interference with, the premises.

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- 11.07 ACTIONS OF DOGS CONSTITUTING A NUISANCE. It shall be unlawful for an owner of a dog to allow or permit such dog to perform the following:
1. Other Premises. To pass upon the premises of another thereby causing damage to or interference with the premises.
 2. Cause Annoyance. 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.
- 11.08 IMPOUNDMENT. Animals found at large in violation of this Chapter shall be seized and impounded, or, at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder. Any person found violating the provisions of this section shall be liable for any fines, cost of securing and impounding any such animal including cost of feed and keep, the actual cost of transporting and boarding, the costs of keeping the animal's license and vaccinations current, and any other penalties prescribed in this code. Upon payment of the beforementioned, the owner may claim any impounded animal. If such dogs, cats, or other animals are not claimed within seven (7) working days after impoundment, they shall be disposed of in a humane manner. Any dog, cat, or other animal returned to the owner or adopted must be brought up to date on all vaccinations before being released.
- 11.09 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 clean up 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 clean and properly disposed of at least once every 24 hours.
- 11.10 UNSANITARY OR OFFENSIVE CONDITIONS PROHIBITED. Any person who uses, keeps or harbors or owns any animals or domestic animals shall keep the same confined in an enclosed building, fenced enclosure or yard. Dogs or cats shall be allowed to be kept on a restraint consisting of a chain, rope or leash strong enough to adequately restrain such dog or cat. Any pen, yard, pasture or place in which animals are kept or confined must be kept sanitary by not allowing

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any filth, manure, excrement or other offensive matter to accumulate in such quantities as to create an offensive or unsanitary condition to exist.

- 11.11 KEEPING OF DOGS AND CATS. It shall be unlawful for any person to keep, care for or harbor more than two (2) dogs or two (2) cats over the age of six months for purposes of show, hunting or as pets.
- 11.12 DOGS NOT CLAIMED. Any impounded dogs, whether licensed or unlicensed, not claimed within seven (7) days after notice shall be disposed of in a humane manner in accordance with the law.
(Code of Iowa, Sec. 351.37)
- 11.13 POISONED MEAT OR SUBSTANCE. No person shall knowingly expose any poisoned meat or other poisoned substances on public or private property where the same may be taken by any human being or domestic animal.
- 11.14 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)
- 11.15 DESTRUCTION IN LIEU OF IMPOUNDMENT. Notwithstanding any of the other provisions of this chapter, any peace officer of the City has the lawful authority to kill any animal, when such animal is caught in the act of maiming or killing any domestic animal or fowl or when such animal is attacking or attempting to bite a person without provocation.
- 11.16 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.
- 11.17 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

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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.

11.18 ANNOYANCE OR DISTURBANCE. It shall be 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. It is also unlawful for the owner of a cat to allow or permit said cat to annoy or disturb any person or persons by frequent and habitual hissing, meowing or fighting.

11.19 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)

11.20 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.

11.21 ACTIONS OF DOGS CONSTITUTING A NUISANCE. It shall be unlawful for an owner of a dog to allow or permit such dog to perform the following:

1. OTHER PREMISES. It shall be unlawful for the owner of an animal to allow or permit such animal to pass upon the premises of another if it thereby causes damage to, or interference with, the premises.
2. CAUSE ANNOYANCE. 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.

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3. CAUSE DAMAGE. To cause any damage or defilement to the public or private property.
 4. MOLEST PERSONS. To molest or harm any person on public or private property.
 5. MOLEST ANIMALS. To molest or kill wildlife, birds or domestic animals on public or private property.
 6. ACCUMULATION OF ANIMAL WASTE. The keeping of pet animals on private property in such number or in such manner that allows for the accumulation of solid waste of such animal which becomes a detriment to the health of the animal or adjacent property owners.
 7. Any dog that is repeatedly found at-large, or if a dog has violated offenses within this Chapter repeatedly. Repeatedly shall mean three times.
- 11.22 ACTIONS OF CATS CONSTITUTING A NUISANCE. It shall be unlawful for an owner of a cat to allow or permit such cat to perform the following:
1. Pass upon the premises of another thereby causing damage to, or interference with the premises, or to harass or annoy residents or owners of the property.
 2. Run at large.
 3. Any cat that is repeatedly found at-large, or if a cat has violated offenses within this Chapter repeatedly. Repeatedly shall mean three times.

CHAPTER 4: ANIMAL CONTROL AND PROTECTION

TITLE III

ARTICLE 12 – KEEPING OF DANGEROUS AND VICIOUS ANIMALS PROHIBITED

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

1. “ANIMAL” shall mean all living creatures not human.
2. “AT LARGE” shall mean any animal found off the premises of his or her owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.
3. “DANGEROUS ANIMAL” shall mean:
 - a. Any animal declared to be dangerous by the County Board of Health, City Council, or any other governing body.
 - b. Any animal which is not naturally tamed or gentle; and which is of a wild nature or disposition and is customarily confined to a zoo and is not of a species customarily used as an ordinary household pet; and which is capable of killing, inflicting serious injury upon, or causing disease among human beings or domestic animals and having known tendencies as a species to do so, or causes a reasonable person to be fearful of bodily harm or property damage. Fish in an aquarium, unless otherwise noted are not considered in this definition. This definition of said animals shall include, but not be limited to:
 - (1) Alligators and crocodiles;
 - (2) All poisonous animals including rear-fang snakes;
 - (3) Apes (chimpanzees, gibbons, gorillas, orangutans, and siamangs);
 - (4) Baboons;
 - (5) Bats
 - (6) Bears;
 - (7) Bison;
 - (8) Bobcats
 - (9) Chimpanzees
 - (10) Cheetahs;
 - (11) Cougars
 - (12) Constrictor and venomous snakes;
 - (13) Coyotes;
 - (14) Deer;
 - (15) Game cocks and other fighting birds;
 - (16) Gila Monsters;
 - (17) Hippopotami;
 - (18) Hyenas;
 - (19) Jaguars;

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- (20) Leopards;
- (21) Lions;
- (22) Lynxes;
- (23) Mink
- (24) Monkeys;
- (25) Ostriches;
- (26) Piranha fish;
- (27) Pumas, also known as cougars, mountain lions and panthers;
- (28) Raccoons
- (29) Rhinoceroses;
- (30) Scorpions;
- (31) Sharks;
- (32) Snow leopards;
- (33) Skunks
- (34) Swine;
- (35) Tigers;
- (36) Wolves and part-wolves
- (37) Wolverines
- (38) Weasels

3. "DOG" shall mean both male and female animals of the canine species whether altered or not.
 4. "DOMESTIC ANIMAL" is a typical and customary house pet, that is not a livestock species or a dangerous animal as defined herein this chapter. This includes dogs, cats, non-dangerous aquarium fish, domesticated birds, hamsters or gerbils.
 5. "DOMESTIC LIVESTOCK" shall mean any domestic animal commonly raised solely for food commerce, and shall include, but not be limited to any cattle, horses, swine, sheep or other similar animals or fowl or any other animals not commonly considered household pets.
 7. "OWNER" shall mean any person or persons, firm, association or corporation owning, keeping, sheltering or harboring a dog.
 8. "VICIOUS ANIMAL" shall mean any animal that has chased or attacked or bitten or has attempted to bite or claw a person or persons while running at large and the attack was unprovoked; any animal that has chased, killed or maimed any domestic animal or fowl, or if such animal has been deemed vicious by the court, County Board of Health, City Council, or other governing body; or when the propensity to attack or bite persons or to chase, kill, or maim domestic animals or fowl shall exist and is known or ought reasonably to be known to the owner.
- 12.02 KEEPING OF VICIOUS OR DANGEROUS ANIMALS PROHIBITED. It shall be

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unlawful for any person to harbor, keep, or shelter any dangerous or vicious animal as a pet, or act as a temporary custodian for such an animal, or keep, shelter, or harbor such animal for any other purpose or in any other capacity within the City except as provided in this section:

1. Dangerous Animal Exceptions. The prohibition contained in this section shall not apply to the keeping of dangerous animals in the following circumstances:
 - a. The keeping of dangerous animals for exhibition to the public by a bona fide traveling circus, carnival, exhibits, or shows.
 - b. The keeping of dangerous animals in a bona fide, licensed veterinary hospital or animal shelter for treatment or boarding.
2. Vicious animal exception: The prohibition contained in this section shall not apply to the keeping of vicious animals, which are under the control of a law enforcement or military agency.
3. Disposition of Dangerous or Vicious Animals. It shall be unlawful for any person to harbor or keep a dangerous or vicious animal within the City limits. In the event that a dangerous or vicious animal is found at large and unattended, it shall be lawful and the duty of all peace officers within their jurisdiction to kill any animal that has been determined to be dangerous or vicious through violation of this chapter. The City shall be under no duty to attempt the confinement or capture of a dangerous or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction. The City will take immediate action in the proper disposal of the remains of the destroyed animal. Any costs incurred by the City in the destruction and disposal of the animal will be the responsibility of the animal owner.

12.03 OWNERS DUTY. It shall be 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 shall be the duty of physicians and veterinarians to report to the local board of health and the City of Larchwood City Clerk the existence of any animal known or suspected to be suffering from rabies.

(Code of Iowa, Sec. 351.38)

12.04 CONFINEMENT. When a Peace Officer, Employee, City Council Member, or Mayor of the City of Larchwood receives information that an animal has bitten any person or that a dog or animal is suspected of having rabies, the owner shall be ordered to confine such animal in the manner directed; If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and

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impounded by the City of Larchwood, and after two weeks the City may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment.

(Code of Iowa, Sec. 351.39)

- 12.05 KEEPING PROHIBITED. It shall be unlawful to keep, harbor, own or in any way possess, a dangerous animal within the City of Larchwood, Iowa. Any such dangerous animal shall be removed from the City within a period of thirty (30) days starting from the effective date of this ordinance.
- 12.06 VIOLATION AND PENALTY. Any person violating or permitting the violation of any provision of this article shall, upon conviction in Magistrate Court, be fined a sum of not less than two hundred dollars (\$200.00) and not more than seven hundred and fifty dollars (\$750.00. In addition, the Court shall order the animal removed from the City. Should the defendant fail to remove the animal from the City, the Magistrate shall find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this Chapter continues shall be deemed a separate offense. In addition to the foregoing penalties, and person who violates this Chapter shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this Chapter.
- 12.07 INSURANCE. The owner of any vicious animal must provide to the City Clerk proof of public liability insurance in a single accident amount of \$50,000 for bodily injury to or death of any person or persons or for damages to property owned by any such persons, which may result from ownership, keeping or maintenance of such animal. Such insurance policy shall provide that no cancellation of the policy shall be made unless ten (10) days written notice is first given the City Clerk.
- 12.08 RIGHT TO APPEAL. The right to appeal is set forth as follows:
1. 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 City Clerk within three (3) days after receipt of the order contained in the notice to remove a dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of right to appeal the order or the Mayor.
 2. The notice of appeal shall state the ground for such appeal and shall be delivered personally or by certified mail to the City Clerk. The hearing of such appeal shall be scheduled for the next regularly scheduled city council meeting or at a special meeting called by the Mayor or City Clerk. The Council, upon hearing the evidence, may affirm or reverse the order of the Mayor. Such determination shall be contained in a written decision and shall be filed with the City Clerk within three (3) days after the hearing.

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3. 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.
4. If the original order of the Mayor is not appealed and is not complied with within three (3) days or the order of 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.
5. Failure to comply with an order of the Mayor issued pursuant to this Chapter and appealed or of the Council after appeal, constitutes a simple misdemeanor.

CHAPTER 5: LEISURE TIME OPPORTUNITIES

TITLE III

ARTICLE 13 - PARK REGULATIONS

- 13.01 PURPOSE. The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities.
- 13.02 PARKING. All vehicles shall be parked in designated parking areas, and no vehicle shall be left unattended on any park drive, road or street, except in the case of an emergency.
- 13.03 USE OF DRIVES REQUIRED. No person shall drive any car, cycle or other vehicle, or ride or drive any horse, in any portion of a park except upon the established drives or roadways therein or such other places as may be officially designated by the city.
- 13.04 FIRES. No fires shall be built, except in a place provided therefore, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.
- 13.05 LITTERING. No person shall place, deposit, or throw any waste, refuse, litter or foreign substance in any area or receptacle except those provided for that purpose.
- 13.06 CAMPING AREAS. No person shall camp in any portion of a park except in portions prescribed or designated by the council.
- 13.07 CAMPING FEES. No person shall camp in any portion of a park except in the portion prescribed or designated by the Council. Only RV's and campers are allowed on the camping pad. There is a four-day (4) camping limit, ten dollars (\$10) per day charge and registration must be made at the City Clerk's office and paid up front. There are electrical hookups only.
(Ordinance 2021-4)
- 13.08 CAMP REGISTRATION. Any person who camps in any park shall register his or her name and address with the City Clerk or and advise such official when camp is vacated and a City's issued permit shall be displayed on vehicle.
- 13.09 CAMPING REFUSED. The city may refuse camping privileges or rescind any and all camping permits for cause.
- 13.10 BEER AND LIQUOR RESTRICTED. No person shall possess or consume any

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beer or alcoholic beverage in the city park between Brown Street and Holder Street.

13.11 PARK HOURS. All city parks shall be closed as of eleven (11:00 p.m.) o'clock every evening.

CHAPTER 6: DRUG PARAPHERNALIA

TITLE III

ARTICLE 14 – DRUG PARAPHERNALIA

14.01 DEFINITIONS.

1. **Controlled Substance:** has the same meaning as contained in the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.
2. **Drug Paraphernalia:** means all equipment, products and materials of any kind which were used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, concealing, containing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of chapter 124 of the Code of Iowa, commonly known as the Uniform Substances Act. It includes but is not limited to the following:
 - a. Kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.
 - b. Kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances.
 - c. Isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant which is a controlled substance.
 - d. Testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances except for such equipment of a peace officer or any person acting as an agent or under the direction of any Police agency.
 - e. Scales and balances used, intended for use in weighing or measuring a controlled substances.
 - f. Diluents and adulterants, such as quinine, hydrochloride, mannitol, mannite, dextrose or lactose, used or intended for use or designed for use in cutting controlled substances.

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- g. Separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning and refining marijuana.
- h. Blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances.
- i. Capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances.
- j. Containers and other objects used, intended for use or designed for use in storing or concealing controlled substances.
- k. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in primarily injecting controlled substance into the human body.
- l. Objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing heroin, marijuana, cocaine, methamphetamine, hashish, or hashish oil into the human body, such as:
 - i. metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish beads or punctured metal bowls;
 - ii. water pipes, chamber pipes, carburetor pipes, electric pipes, air-driven pipes, bongs, ice pipes or chiller;
 - iii. carburetor tubes and devices;
 - iv. smoking and carburetion masks;
 - v. roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;
 - vi. miniature cocaine spoons and cocaine vials.

In determining whether an object is drug paraphernalia for the purpose of enforcing this ordinance, the following factors should be considered in addition to all other logically relevant factors:

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- a. Statements by an owner or by anyone in control of the object concerning its use.
- b. Prior convictions, if any, or an owner or anyone in control of the object under any state or federal law relating to any controlled substances.
- c. The proximity of the objects in time and space to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.
- d. The proximity of the object to controlled substances.
- e. The existence of any residue of a controlled substance on the object.
- f. Direct or circumstantial evidence of the intent of any owner or of anyone in control of the object, to deliver it to persons whom he or she or she knows or should reasonably know intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.
- g. Instruction, oral or written, provided with the object concerning its use.
- h. Descriptive materials accompanying the object which explains or depicts its use.
- i. The manner in which the object is displayed for sale.
- j. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products. Direct or circumstantial evidence or the ratio of sales of the objects in the total sales of the business enterprise.
- k. The existence and scope of legitimate uses for the objects in the community.
- l. Expert testimony concerning its use.

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1. Person: shall mean any individual, corporation, limited liability company, business trust, partnership or association, or any other legal entity.
2. Drug Paraphernalia Prohibited: No person use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.
3. Manufacture or Delivery of Drug Paraphernalia Prohibited: No person shall deliver, possess with intent to deliver or manufacture with intent to deliver drug paraphernalia, intending that the drug paraphernalia will be used, or knowing or under circumstances where one should reasonably know that it will be used, or know that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, prepare, test, analyze, packing, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

(Editor's Note: Chapter 6 Drug Paraphernalia, Article 14 Drug Paraphernalia was added at time of updating the code book in 2009.)

TITLE III

CHAPTER 7: EXCESSIVE NOISE

ARTICLE 15 - GENERAL PROVISIONS

15.01 DEFINITIONS. The following definitions shall apply in the interpretation and enforcement of this Chapter:

1. "DAY": The hours between seven o'clock (7:00) A.M. and eight o'clock (8:00) P.M.
2. "NIGHT": The hours between eight o'clock (8:00) P.M. and seven o'clock (7:00) A.M.
3. "NOISE": Unwanted or annoying sound.
4. "PERSON": Any individual, firm or corporation.
5. "VEHICLE": Any passenger vehicle, motorcycle, truck, truck trailer, trailer, semi-trailer or similar device intended to convey people and/or commodities which is propelled or drawn by mechanical power, but shall not include airplanes and toys.

15.02 NOISES PROHIBITED. Each of the following acts, among others, is hereby declared to be in violation of this Chapter, and is prohibited. The following enumerated acts shall not be construed as limited or precluding enforcement of any other provisions of this Chapter:

1. Horns, Signaling Devices, Etc.: The sounding of any horn or signaling device of any automobile, motorcycle, bus or other vehicle on any street or public place of the City, except as a danger warning, for an unnecessary and unreasonable period of time. During nighttime hours, any sounding of horns except as a danger warning shall be considered unnecessary.
2. Hawkers and Peddlers: The sale by outcry within any area of the City zoned for residential uses. The provisions of this subsection shall not be construed to prohibit the selling by outcry of merchandise, food and beverages at licensed sporting events, parades, fairs, circuses and other similar licensed public entertainment events, nor to prohibit the selling of newspaper by outcry.
3. Animals and Fowl: The keeping of, upon any premises, owned, occupied or controlled by any person, any animal or fowl otherwise permitted to be kept which, by any sound, barking or cry, shall cause annoyance or discomfort to a reasonable person of normal sensibilities.

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4. Radios, Televisions, Etc.: The use of radios, televisions, cassette and other tape recorders, public address systems, and other sound amplification devices, including any such devices incorporated into motor vehicles, in or within five hundred feet (500') of any residentially zoned district of the City when the level is maintained at a level such that it can be heard at or within premises adjacent to the premises, park or other locale where the device is being used, and:
 - a. During night hours which volume level a reasonable person would conclude could be expected to interfere with sleep or other quiet time activities at such adjacent premises; or
 - b. During day hours which volume level a reasonable person would conclude could be expected to interfere with normal daytime activities carried on at residential premises, or if the noise level is intentionally maintained at a particular level for the specific purposes of annoying a particular person; provided that nothing contained in this paragraph 2 shall be held to prohibit public speaking, the ordinary conduct of legitimate business, or other lawful expressions of opinion not in contravention of other laws.
5. Schools, Courts, Churches, Hospitals: The creation of a loud and excessive noise on any street adjacent to any school, institution of learning, church or court while the same are in use, or adjacent to any hospital, which unreasonably interferes with the workings of such institution, or which disturbs or unduly annoys patients in the hospital.
6. Construction or Repair of Buildings: The erection (including excavation), demolition, alteration or repair of any building other than between the hours of seven o'clock (7:00) A.M. and nine o'clock (9:00) P.M. of any day.
7. Pile Drivers, Hammers, Etc.: The operation between the hours of six o'clock (6:00) P.M. and seven o'clock (7:00) A.M. of any pile driver, steam shovel, pneumatic hammer, derrick, power hoist or other construction equipment.
8. Garbage Collection: The collection of garbage, waste or refuse by any person in any area zoned residential, except between the hours of six o'clock (6:00) A.M. and nine o'clock (9:00) P.M. of any day and then only in a manner so as not to create a loud or excessive noise.
9. Vehicle Repairs: The repair or rebuilding of any motor vehicle within any residential area of the City between the hours of nine o'clock (9:00) P.M. and eight o'clock (8:00) A.M. in such a manner that a reasonable person of normal sensitivities residing in the area is caused discomfort or annoyance.

TITLE III

10. Exhausts: The discharge into the open air of the exhaust of any steam engine, internal combustion engine, motorboat, or motor vehicle or discharge of air or other gases except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
11. Unlawful Use Of Buildings: No person owning, or in possession of or in control of any building or premises, shall use the same, permit the use of the same, or rent the same to be used for any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall, by the noise generated therefrom, disturb or interfere with the peace of the neighborhood in which such building or premises is situated.
12. Lawn mowers, Garden Tools, Etc.: The use of lawn mowers, small lawn and garden tools, riding tractors and other powered equipment necessary for the maintenance of property during the hours of nine o'clock (9:00) P.M. through seven o'clock (7:00) A.M., inclusive. Snow blowers and other powered snow removal equipment are specifically exempt from this prohibition.
13. 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, 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.

15.03 MISCELLANEOUS OPERATIONS.

1. Emergency Operation: Emergency short-term operations which are necessary to protect the health and welfare of the citizens, such as emergency utility and street repair, fallen tree removal or emergency fuel oil delivery, shall be exempt from the provisions of this Chapter, provided that reasonable steps shall be taken by those in charge of such operations to minimize noise emanating from the same.
2. Noise Required By Law: The provisions of this Chapter shall not apply to any noise required specifically by law for the protection or safety of people or property.
3. Airplanes: Aircraft operations which are controlled specifically by Federal law and enforcement shall be exempted from the provisions of this Chapter.
4. Disorderly Conduct: Noise created by human behavior and generally considered to be disorderly conduct, shall, unless specifically described in section 15.02 of this article, be regulated under article 1 of this chapter.

TITLE III

5. Municipal Street Responsibilities: The provisions of this Chapter shall not apply to any noise produced by the operation of the City's street sweeper, by operation of the air compressor in connection with street painting operations, and by the operation of snow removal equipment during or following a snowfall event.

15.04 VARIANCE MAY BE GRANTED.

1. Variance permits may be issued by the Lyon County Sheriff's Department to exceed the noise standards set forth in this Chapter, as follows:
 - a. General: A temporary variance permit may be issued upon request to perform certain work activities outside the normal hours provided in section 15.02 of this chapter for such activity provided it is necessary to conduct the work activity at such times so as to promote public health and/or welfare and reasonable steps are taken to keep such noise at the lowest possible practical level.
 - b. Special Community Events: A temporary variance permit may be issued for special events, such as circuses, Fourth of July celebrations and similar community events, which are limited in duration and are generally acceptable to the people of the community; provided that precautions are taken to maintain the noises produced at the lowest practical level.
 - c. Procedure To Obtain A Variance Permit: Applications for temporary variance permits must be made in writing to the Lyon County Sheriff's Department and shall contain all of the following pertinent information:
 - Dates requested;
 - Time and place of operation;
 - Equipment and operation involved; Necessity for such permit;
 - Steps to be taken to minimize noise; and
 - Name of responsible person(s) who will be present at the site while the noise is produced.
 - d. Limitations and Revocation: The Lyon County Sheriff's Department may place such limitations upon the granting of a variance as the City Council may request and the City Council and/or Sheriff's Department is specifically authorized to revoke the granted variance if the applicant shall fail to meet the limitations placed upon the granting of the variance and/or other circumstances occurring subsequent to the granting of the variance requiring such revocation.

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2. Spontaneous Celebrations: Unusual noises associated with specific events, such as victory celebrations during or following athletic events and motor vehicle processions following weddings shall be considered as having occurred pursuant to permit provided in section 15.04 of this chapter provided that such demonstration or celebration is of reasonably short duration, does not occur after ten o'clock (10:00) P.M., and is otherwise ceased if requested by peace officer or other appropriate public officials.

15.05 ENFORCEMENT. It shall be the duty of the Lyon County Sheriff's Department to enforce the provisions of this article.

(Editor's Note: Chapter 6 Excessive Noise, Article 15 General Provisions was added at time of updating the code book in 2009.)

TITLE IV

TITLE IV - TRAFFIC AND STREETS

TITLE IV

CHAPTER 1: TRAFFIC CODE

ARTICLE 1 - GENERAL PROVISIONS

1.01 DEFINITIONS. Where words and phrases used in this chapter are defined by state law, such definitions shall apply to their use in this chapter and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, shall have the following meanings:

1. "PARK" OR "PARKING" shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.
2. "STAND" OR "STANDING" shall mean the halting of a vehicle, whether occupied or not, otherwise than for the purpose of, and while actually engaged in, receiving or discharging passengers.
3. "STOP" shall mean when required, the complete cessation of movement.
4. "STOP" OR "STOPPING" shall mean, 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.
5. "BUSINESS DISTRICT" shall mean the territory described by the following parts of streets: contiguous to and including Broadway Street from Fell Street to Railroad Street.
6. "RESIDENCE DISTRICT" shall mean the territory not included in a business or school district.

1.02 ADMINISTRATION AND ENFORCEMENT. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the Lyon County Sheriff's Department.

1.03 TRAFFIC ACCIDENTS. The following shall apply to traffic accidents:

1. **REPORT**. The driver of a vehicle involved in an accident within the limits of this city shall file a report as and when required by the Iowa Department of Public Safety. A copy of this report shall be filed with the city for the confidential use of the peace officers and shall be subject to the provisions of the Code of Iowa.

(Code of Iowa, Sec. 321.271)

TITLE IV

2. INVESTIGATION. The sheriff's department shall investigate all accidents reported. If sufficient evidence of a violation is found, proper action will be taken to punish the violator.
 3. STUDIES. Whenever the accidents at any particular location become numerous, the sheriff's department shall conduct studies of such accidents and propose remedial measures.
- 1.04 FILES MAINTAINED. The sheriff's department shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver during the most recent three-year period. Such reports shall be filed alphabetically under the name of the driver concerned.
 - 1.05 ANNUAL SAFETY REPORTS. The sheriff's department shall prepare annually a traffic report which shall be filed with the mayor and council. Such report shall contain information on the number of traffic accidents, the number of persons killed and injured, the number and nature of violations, and other pertinent traffic data including plans and recommendations for future traffic safety activities.
 - 1.06 HABITUAL TRAFFIC VIOLATORS. The sheriff's department shall study the cases of all drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident, and shall attempt to discover the reasons therefore, and shall take whatever steps are lawful and reasonable to prevent the same, or to have the license of such persons suspended or revoked as provided by state law.
(Code of Iowa, Sec. 321.201 & 321.215)
 - 1.07 POWER TO DIRECT TRAFFIC. A peace officer, and any officer of the fire department when at the scene of a fire, is authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of an emergency, traffic may be directed as conditions require, notwithstanding the provisions of the traffic laws.
 - 1.08 PEACE OFFICER'S AUTHORITY. Any 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, logbook, 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 the vehicle.
(Code of Iowa, Sec. 321.492)
 - 1.09 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.

TITLE IV

CHAPTER 1: TRAFFIC CODE

ARTICLE 2 - REGULATIONS AND VIOLATIONS

2.01 VIOLATION OF STATE REGULATIONS. Any person who shall willfully fail or refuse to comply with any lawful order of a peace officer or direction of a fire department officer during a fire, or who shall fail to abide by the provisions of this chapter and 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 chapter. These sections of the Code of Iowa are adopted reference:

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.
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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 321.180 – Instruction permits.
13. Section 321.180B – Graduated driver’s licenses for persons aged fourteen through seventeen.
14. Section 321.193 – Restricted licenses.
15. Section 321.194 – Special minor’s licenses.
16. Section 321.216 – Unlawful use of license and nonoperator’s identification card.
17. Section 321.216B – Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol.
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20. Section 321.219 – Permitting unauthorized minor to drive.

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21. Section 321.220 – Permitting unauthorized person to drive.
22. Section 321.221 – Employing unlicensed chauffeur.
23. Section 321.222 – Renting motor vehicle to another.
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31. Section 321.260 – Interference with devices, signs or signals; unlawful possession - traffic signal preemption devices.
32. Section 321.262 – Damage to vehicle.
33. Section 321.263 – Information and aid.
34. Section 321.264 – Striking unattended vehicle.
35. Section 321.265 – Striking fixtures upon a highway.
36. Section 321.275 – Operation of motorcycles and motorized bicycles.
37. Section 321.276 – Hand-Held Electronic Communication Device
38. Section 321.278 – Drag racing prohibited.
39. Section 321.284 – Open containers in motor vehicles – drivers.
40. Section 321.284A – Open containers in motor vehicles – passengers.
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43. Section 321.297 – Driving on right-hand side of roadways; exceptions.
44. Section 321.298 – Meeting and turning to right.
45. Section 321.299 – Overtaking a vehicle.
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47. Section 321.303 – Limitations on overtaking on the left. (Unsafe Passing)
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50. Section 321.307 – Following too closely.
51. Section 321.308 – Motor trucks and towed vehicles; distance requirements.

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52. Section 321.309 – Towing; convoys; drawbars.
53. Section 321.310 – Towing four-wheel trailers.
54. Section 321.311 – Turning at intersections.
55. Section 321.312 – Turning on curve or crest of grade.
56. Section 321.313 – Starting parked vehicle.
57. Section 321.314 – When signal required.
58. Section 321.315 – Signal continuous.
59. Section 321.316 – Stopping.
60. Section 321.317 – Signals by hand and arm or signal device.
61. Section 321.318 – Method of giving hand and arm signals.
62. Section 321.319 – Entering intersections from different highways.
63. Section 321.320 – Left turns; yielding.
64. Section 321.321 – Entering through highways.
65. Section 321.322 – Vehicles entering stop or yield intersection.
66. Section 321.323 – Moving vehicle backward on highway.
67. Section 321.323A – Approaching certain stationary vehicles.
68. Section 321.324 – Operation on approach of emergency vehicles.
69. Section 321.324A – Funeral processions.
70. Section 321.325 – Pedestrians subject to signals.
71. Section 321.326 – Pedestrians on left.
72. Section 321.327 – Yield to pedestrians in crosswalks.
73. Section 321.328 – Pedestrian failing to use crosswalk.
74. Section 321.329 – Duty of driver – pedestrians crossing or working on highways.
75. Section 321.330 – Use of crosswalks.
76. Section 321.331 – Pedestrians soliciting rides.
77. Section 321.332 – White canes restricted to blind persons.
78. Section 321.333 – Duty of drivers.
79. Section 321.340 – Driving through safety zone.
80. Section 321.341 – Obedience to signal of train.
81. Section 321.342 – Stop at certain railroad crossings; posting warning.
82. Section 321.343 – Certain vehicles must stop.

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83. Section 321.344 – Heavy equipment at crossing.
84. Section 321.344B – Immediate safety threat; penalty.
85. Section 321.354 – Stopping on traveled way.
86. Section 321.358 – Stopping, standing, or parking where prohibited.
87. Section 321.359 – Moving other vehicle.
88. Section 321.360 – Parking prohibited in front of certain buildings (i.e., Theaters, hotels and auditoriums).
89. Section 321.362 – Unattended motor vehicle. (Parking without stopping engine and setting brake).
90. Section 321.363 – Obstruction to driver's view.
91. Section 321.364 – Preventing contamination of food by hazardous material.
92. Section 321.365 – Coasting prohibited.
93. Section 321.366 – Acts prohibited on fully controlled-access facilities.
94. Section 321.367 – Following fire apparatus.
95. Section 321.368 – Crossing fire hose.
96. Section 321.369 – Putting debris on highway.
97. Section 321.370 – Removing injurious material.
98. Section 321.371 – Clearing up wrecks.
99. Section 321.372 – School buses.
100. Section 321.381 – Movement of unsafe or improperly equipped vehicles.
101. Section 321.381A – Operation of low-speed vehicles.
102. Section 321.382 – Upgrade pulls; minimum speed.
103. Section 321.383 – Exceptions; slow vehicles identified.
104. Section 321.384 – When lighted lamps required. (Failure to use headlamp when required).
105. Section 321.385 – Head lamps on motor vehicles.
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107. Section 321.387 – Rear lamps.
108. Section 321.388 – Illuminating plates. (Improper registration plate lamp)
109. Section 321.389 – Reflector requirement. (Improper rear reflector)
110. Section 321.390 – Reflector requirements.
111. Section 321.392 – Clearance and identification lights.
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113. Section 321.394 – Lamp or flag on projecting load.
114. Section 321.395 – Lamps on parked vehicles.
115. Section 321.398 – Lamps on other vehicles and equipment.
116. Section 321.402 – Spot lamps.
117. Section 321.403 – Auxiliary driving lamps.
118. Section 321.404 – Signal lamps and signal devices.
119. Section 321.404A – Light-restricting devices prohibited.
120. Section 321.405 – Self-illumination.
121. Section 321.406 – Cowl lamps.
122. Section 321.408 – Back-up lamps.
123. Section 321.409 – Mandatory lighting equipment.
124. Section 321.415 – Required usage of lighting devices. (Failure to Dim)
125. Section 321.417 – Single-beam road-lighting equipment.
126. Section 321.418 – Alternate road-lighting equipment.
127. Section 321.419 – Number of driving lamps required or permitted.
128. Section 321.420 – Number of lamps lighted.
129. Section 321.421 – Special restrictions on lamps.
130. Section 321.422 – Red light in front.
131. Section 321.423 – Flashing lights.
132. Section 321.430 – Brake, hitch and control requirements.
133. Section 321.431 – Performance ability.
134. Section 321.432 – Horns and warning devices.
135. Section 321.433 – Sirens, whistles and bells prohibited.
136. Section 321.434 – Bicycle sirens or whistles.
137. Section 321.436 – Mufflers, prevention of noise.
138. Section 321.437 – Mirrors.
139. Section 321.438 – Windshields and windows.
140. Section 321.439 – Windshield wipers.
141. Section 321.440 – Restrictions as to tire equipment.
142. Section 321.441 – Metal tires prohibited.
143. Section 321.442 – Projections on wheels.
144. Section 321.444 – Safety glass.

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145. Section 321.445 – Safety belts and safety harnesses; use required.
 146. Section 321.446 – Child restraint devices.
 147. Section 321.449 – Motor carrier safety regulations.
 148. Section 321.450 – Hazardous materials transportation.
 149. Section 321.454 – Width of vehicles.
 150. Section 321.455 – Projecting loads on passenger vehicles.
 151. Section 321.456 – Height of vehicles; permits.
 152. Section 321.457 – Maximum length.
 153. Section 321.458 – Loading beyond front.
 154. Section 321.459 – Excessive weight – dual axels (each over 2000 lb. over).
 155. Section 321.460 – Spilling loads on highways.
 156. Section 321.461 – Trailers and towed vehicles.
 157. Section 321.462 – Drawbars and safety chains.
 158. Section 321.463 – Maximum gross weight.
 159. Section 321.465 – Weighing vehicles and removal of excess.
 160. Section 321.466 – Increased loading capacity; re-registration.
- 2.02 CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of the city unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or him or herself to any vehicle upon a roadway.
- 2.03 VEHICLES ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area except at a driveway.
- 2.04 TAMPERING WITH VEHICLE. Any person who either individually, or in association with one or more other persons, willfully injures or tampers with any vehicle or breaks or removes any part or parts of or from a vehicle without the consent of the owner is guilty of a simple misdemeanor punishable as provided in the Code of Iowa.
(Code of Iowa, Sec. 321.482)
- 2.05 MILLING. It shall be unlawful to drive or operate a motor vehicle, either singly or with others in any processional milling or repeated movement to the interference with normal traffic use, or to operate a motor vehicle or motorcycle on the streets of the city so as to pass the same point more than twice within any hour in the business or school districts of the city or at such a slow speed as to impede or block

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normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law. This shall not apply to trucks or other delivery or service vehicles in actual service or delivery operation.

2.06 SQUEALING TIRES. No person shall drive any vehicle in such a manner as to cause the repeated or prolonged squealing of tires through too rapid acceleration or too high speed on turning of such vehicle.

2.07 MUFFLERS. It shall be unlawful for a person to operate or drive a motor vehicle on a highway that is not equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, or to use a muffler cutout, bypass or similar device.

(Code of Iowa, Sec. 321.436)

2.08 PLAY STREETS. The council may declare any street or part thereof a play street and to place 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)

2.09 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.

2.10 FUNERAL OR OTHER PROCESSIONS. The following shall apply to funeral and other processions:

(Code of Iowa, Sec. 321.236(3))

1. IDENTIFIED. A funeral or other procession composed of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the sheriff's department.

2. MANNER OF DRIVING. Each driver in a funeral or other procession shall drive as near to the right hand of the roadway as practical and safe.

3. INTERRUPTING PROCESSION. No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this section. This provision shall not apply at intersections where traffic is controlled by traffic control signals or peace officers.

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2.11 SCHOOL BUSES. The following shall apply to school buses:

1. **SIGNALS.** The driver of any school bus used to transport children to and from a public or private school shall, when stopping to receive or discharge pupils at any point within the city, turn on the flashing stop warning signal lights at a distance of not less than one hundred (100) feet, nor more than three hundred (300) feet from the point where the pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils the driver of the bus shall bring the bus to a stop and extend the stop arm. After receiving or discharging pupils, the bus driver shall turn off the flashing stop warning lights, retract the stop arm and then proceed on the route. No school bus shall stop to load or unload pupils unless there is at least three hundred (300) feet of clear vision in each direction.
(Code of Iowa, Sec. 321.372(1))
2. **LIGHTS ON.** The driver of a school bus shall, while carrying passengers, have its headlights turned on.
(Code of Iowa, Sec. 321.372(1))
3. **DISCHARGING PUPILS.** All pupils shall be received and discharged from the right front entrance of every school bus, and if the pupils must cross the street or highway, they shall be required to pass in front of the bus, look in both directions, and proceed to cross the street or highway only on signal from the bus driver.
(Code of Iowa, Sec. 321.372(2))
4. **PASSING PROHIBITED.** The driver of any vehicle overtaking a school bus shall not pass a school bus when flashing stop warning signal lights are flashing and shall bring said vehicle to a complete stop not closer than fifteen feet of the school bus when it is stopped and stop arm is extended, and shall remain stopped until the stop arm is retracted and school bus resumes motion, or until signaled by the driver to proceed.
(Code of Iowa, Sec. 321.372(3))
5. **STOP WHEN MEETING.** The driver of any vehicle when meeting a school bus on which the amber warning signal lights are flashing shall reduce the speed of said vehicle to not more than twenty (20) miles per hour, and shall bring said vehicle to a complete stop when signal arm is extended and said vehicle shall remain stopped until stop arm is retracted after which driver may proceed with due caution.
(Code of Iowa, Sec. 321.372(3))
6. **MULTI-LANE ROADS.** The driver of a vehicle upon a highway or street providing two or more lanes in each direction need not stop upon meeting a school bus which is traveling in the opposite direction even though said school bus has stopped.
(Code of Iowa, Sec. 321.372(4))

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- 2.14 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 shall be deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Title III, Chapter 2 of this Code of Ordinances.
- 2.15 EXCESSIVE ACCELERATION. It is unlawful for any person in the operation of a motor vehicle, including motorcycles, to so accelerate such vehicle as to cause audible noise by the friction of the tires on the pavement or to cause the tires of the vehicle to leave marks on the pavement or to throw sand and gravel, or to cause the wheel of a motorcycle to leave the ground more than two (2) inches, except when such acceleration is reasonably necessary to avoid a collision.
- 2.16 CARELESS DRIVING. No person shall drive any vehicle in such a manner as to indicate careless driving, which when used here does not impute willfulness or intent, but means simple negligence.
- 2.17 JAKEBRAKING. It shall be unlawful for any person in any part of the City of Larchwood to make, or cause to be made, loud or disturbing noises with any mechanical devices operated by compressed air and used for the purpose of assisting braking on any semi-tractor, commonly referred to as jake braking. The City shall cause notices to be posted, or signs erected indicating prohibition.
- 2.18 UNATTENDED VEHICLE.
1. No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition and removing the key; or to permit it to stand unattended upon any perceptible grade without effectively setting the brake thereon and turning the front wheels to the curb or side of the highway.
 2. No "reefer", or refrigeration unit of a semi or semi-trailer, or a vehicle with refrigeration shall be left unattended and running during daylight hours, nor shall any reefer or refrigeration unit on a vehicle be left running from the hours of sunset to sunrise.

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CHAPTER 1: TRAFFIC CODE

ARTICLE 3 - SPEED REGULATIONS

- 3.01 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 the person 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)
- 3.02 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)
- 3.03 BUSINESS DISTRICT. A speed in excess of twenty (20) miles per hour in the business district, unless specifically designated otherwise in this article, is unlawful.
(Code of Iowa, Sec. 321.285(1))
- 3.04 RESIDENCE OR SCHOOL DISTRICT. A speed in excess of twenty-five (25) miles per hour in any school or residence district, unless specifically designated otherwise in this article, is unlawful.
(Code of Iowa, Sec. 321.285(2))
- 3.05 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 article, is unlawful.
(Code of Iowa, Sec. 321.236(5))
- 3.06 SPECIAL SPEED RESTRICTIONS. In accordance with requirements of the Iowa Uniform Traffic Devices Manual, the council, upon the basis of an engineering and traffic investigation, finds that the general speed limits set out above are greater or less than is reasonable or safe under the conditions found to exist at the particular intersections or parts of the city street system and therefore declares the maximum speed limits to be as set out in section 3.07 at the places named.
(Code of Iowa, Sec. 321.290)
- 3.07 SPECIAL SPEED ZONES. In accordance with requirements of the Iowa State Department of Transportation, or whenever the council shall determine upon the basis of an engineering and traffic investigation that any speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or other place or upon any part of the city street system the

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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. A speed in excess of the limits set out miles per hour shall be unlawful on any of the following designated streets or parts thereof:

(Code of Iowa, Sec. 321.290)

- 3.08 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)

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CHAPTER 1: TRAFFIC CODE

ARTICLE 4 - TURNING REGULATIONS

4.01 AUTHORITY TO MARK. The sheriff's department may cause markers, buttons or signs to be placed within or adjacent to intersections and thereby require and direct, as traffic conditions require, that a different course from that specified by the state law be traveled by vehicles turning at intersections, and when markers, buttons or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons or signs.

(Code of Iowa, Sec. 321.311 & 321.255)

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

4.03 SIGNAL REQUIREMENTS. A signal of intention to turn right or left shall be given continuously during not less than the last one hundred (100) feet traveled by the vehicle before turning when the speed limit is forty-five (45) miles per hour or less. The required signals may be given either by means of the hand and arm as provided in the Code of Iowa or by a mechanical or electrical directional signal device or light of a type approved by the department and conforming to the provisions of the Code of Iowa.

(Code of Iowa, Sec. 321.315)

4.04 "U" TURNS. It shall be unlawful for a driver to make a "U" turn except at an intersection; provided however, that "U" turns are prohibited at intersections within the business district, at intersections where there are automatic traffic signals and on the following streets:

(Code of Iowa, Sec. 321.255 & 321.236(9))

1. Broadway and Brown

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

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CHAPTER 1: TRAFFIC CODE

ARTICLE 5 - PARKING REGULATIONS

5.01 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 or within ten (10) feet of a crosswalk at an intersection.
(Code of Iowa, Sec. 321.236(1) & 321.358(5))
2. **CENTER PARKING.** On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236(1))
3. **MAILBOXES.** Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236(1))
4. **SIDEWALKS.** On or across a sidewalk.
(Code of Iowa, Sec. 321.358(1))
5. **DRIVEWAY.** In front of a public or private driveway.
(Code of Iowa, Sec. 321.358(2))
6. **INTERSECTION.** Within an intersection of any street.
(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. **FIRE STATION.** No parking is permitted on Sports Loop Drive Fire Lane.

(Ordinance 2015-4)
10. **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))

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11. **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))
12. **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 sheriff's department may cause curbs to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, Sec. 321.358(13))
13. **THEATERS, HOTELS, AND HOSPITALS.** A space of fifty (50) feet is reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.
(Code of Iowa, Sec. 321.360)
14. **PUBLIC ALLEY.** In any public alley within the fire limits of this city.
(Code of Iowa, Sec. 321.236(1))
15. **PRIVATE ALLEY.** In any private alley within the fire limits of this city in such a manner that ingress or egress of fire apparatus to or from such alley might be blocked.
(Code of Iowa, Sec. 321.236(1))
16. **STATE HIGHWAY INTERSECTING STREETS.** On the minor street approach or a distance of one hundred fifty (150) feet in advance of the stop sign or on the exit side of the minor street for a distance of one hundred fifty (150) feet of any State Highway.
17. **IN MORE THAN ONE SPACE.** In any designated parking place so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such spaces.
18. **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))
19. **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 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

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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))

20. RULLAND STREET. Between Holder and Fell Streets.

(Ordinance 2-2014)

5.02 PARKING 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)

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

(Code of Iowa, Sec. 321.361)

5.04 ANGLE PARKING. Upon those streets or portions of streets which have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by such signs and markings. No part of any vehicle, or the load thereon, when parked within an angle 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)

5.05 ANGLE PARKING LOCATIONS. 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 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)

5.06 PARKING SIGNS REQUIRED. Whenever by this article or any other section of the municipal code, any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the sheriff's department to erect or cause to be erected appropriate signs giving notice, and no

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such regulations shall be effective unless signs are erected and in place at the time of any alleged offense, except where there is a parking ban of uniform application relating to snow removal. When the signs are so erected giving notice, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.255 & 321.358(14))

5.07 PARKING LIMITED TO FIFTEEN MINUTES. It shall be unlawful to park any vehicle for a continuous period of more than fifteen (15) minutes any time upon the following designated streets:

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

1. Broadway Street, two spaces in front of the U.S. Post Office.

5.08 TRUCK PARKING LIMITED. Trucks weighing ten thousand pounds (5) tons or more, loaded or empty, shall not be parked at the following locations:

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 of the following designated streets. When actually receiving or delivering merchandise or cargo such vehicle shall be stopped or parked in a manner which will not interfere with other traffic.

2. All Night. No such vehicle shall be left unattended or parked upon any street or alley, except Broadway from Holder Street to Railroad Street for a period of time longer than one (1) hour, beginning one (1) hour after sunset until one (1) hour before sunrise.

3. Livestock. No such vehicle containing livestock shall be parked on any street, alley or highway for a period of time of more than thirty (30) minutes.

5.09 VEHICLE UNATTENDED. When a vehicle is parked in violation of this chapter and the driver is not present, the notice of fine or citation as provided in this chapter shall be attached to the vehicle in a conspicuous place.

5.10 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon the roadway for any of the following principal purposes:

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

1. DISPLAY SALE VEHICLE. Displaying such vehicle for sale.

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

3. ADVERTISING. Displaying advertising.

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4. **SELLING FROM VEHICLE.** Selling merchandise from such vehicle except in a duly established marketplace or when so authorized or licensed under the city code.
 5. **STORAGE.** Storage or as junk or dead storage for more than forty-eight (48) hours.
- 7.07 **ALL NIGHT PARKING PROHIBITED.** Parking will be prohibited on all streets for over forty-eight hours at one time, at which time the Sheriff's Department will be contacted for ticketing.

(Editor's Note: Section 5.10 was amended by Ordinance 63, which was approved by Council on February 4, 2008.)

- 5.12 **HANDICAPPED PARKING SPACES.** The city council shall create handicapped parking spaces in the number and in the dimension as required by federal and Iowa statutes or regulations.

- 5.13 **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 motor vehicle not displaying a handicapped parking permit:
- b. Use by a motor vehicle displaying a handicapped permit but not being used by a person in possession of a motor vehicle license with a handicapped designation or a nonoperator's identification card with a handicapped designation (other than a person transporting the handicapped or elderly persons being so transported in a vehicle displaying a removable placard in accordance with section 321L.2(1b) of the Iowa Code;
- c. Use by a motor vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

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- d. Scheduled Violation. A violation of this subsection 2 is a scheduled violation and subject to a fine of One Hundred Dollars (\$100.00).
(Code of Iowa, Sec. 805.8A(1c))
3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
 - a. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A(1) of the Code of Iowa when utilizing a wheelchair parking cone.
 - b. A person shall not interfere with a wheelchair parking cone which is properly placed under the provisions of Section 321L.2A(1) of the Code of Iowa.
 - c. For a parking violation under section 321L.2A of the Code of Iowa, subsection 2, the scheduled fine is twenty dollars (\$20.00).
(Code of Iowa, Sec. 805.8A(1b))
- 5.14 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, Sec. 321.236[1])

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CHAPTER 1: TRAFFIC CODE

ARTICLE 6 - STOP AND YIELD

6.01 VEHICLES ENTERING STOP INTERSECTION. The driver of a vehicle approaching a stop intersection indicated by a stop sign 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 before entering the intersection. Before proceeding, 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, 321.322(1))

6.02 THROUGH STREET STOPS. Every driver of a vehicle shall stop, unless a yield is permitted by this article, before entering an intersection with the following designated through streets:

(Code of Iowa, Sec. 321.345)

1. Broadway Street from Geiser Street to Railroad Street.
2. Holder Street (Iowa Highway 9) from the east corporate line to the west corporate line.
3. County Road No. K-16, from the north corporate line to the south corporate line.
4. Fell Street, from the east corporate line to the west corporate line.

6.03 STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following intersections from the directions indicated:

1. Brown Street. Vehicles traveling west on Brown Street shall stop at Rulland Street.
2. Edwards Street. Vehicles traveling north on Edwards Street shall stop at Geiser Street.
3. Geiser Street. Vehicles traveling on Geiser Street shall stop at Williams Street.
4. Rulland Street. Vehicles traveling north on Rulland Street shall stop at Fell Street.
5. Carter Street. Vehicles traveling north on Carter Street shall stop at Geiser Street.
6. Carter Street. Vehicles traveling south on Carter Street shall stop at Fell Street.

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7. Blaine Avenue. Vehicles traveling north on Blaine Avenue shall stop at Holder Street.
8. Blaine Avenue. Vehicles traveling north on Blaine Avenue shall stop at Holder Street.

(Editor's Note: Sections 6.03 (5) & (6) were added by Ordinance 57, which was approved by Council on July 7, 2007)
Sections 6.03(7) & (8) were added by Ordinance 60, which was approved by Council on November 7, 2007)

9. South Street. Vehicles traveling west on South Street shall stop at Blaine Avenue.

(Ordinance 2012-3)

10. Fell Street. Vehicles traveling east and west on Fell Street shall stop at Edwards Street.

(Ordinance 2-2013)

11. Holder Street. Vehicles traveling East on Holder Street shall stop at Blaine Avenue.

(Ordinance 2, Approved September 7, 2010.)

12. Holder Street. Vehicles traveling West on Holder St shall stop at Blaine Avenue.

(Ordinance 2, Approved September 7, 2010.)

- 6.04 FOUR WAY STOP INTERSECTIONS. Every driver of a vehicle shall stop before entering the following designated four-way stop intersections:

1. Intersection of Fell Street and Williams Street.

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

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

(Code of Iowa, Sec. 321.353)

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6.07 SCHOOL STOPS. At school crossing zones approved by the council, every driver of a vehicle approaching said zone shall bring his 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 driver shall have passed through such school crossing zone.

(Code of Iowa, Sec. 321.249)

6.08 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))

6.09 SPECIAL YIELD REQUIRED. Every driver of a vehicle shall yield in accordance with the foregoing section, at the following intersections if approaching from the directions indicated:

(Reserved for future use)

6.10 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 so 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)

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

(Ordinance 2015-3)

2. Broadway Street. 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 two so you'll, to a pedestrian crossing the roadway within a marked crosswalk or within any unmarked crosswalk and an intersection.

(Ordinance 2015-3)

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CHAPTER 1: TRAFFIC CODE

ARTICLE 7 - ONE WAY STREETS

(RESERVED FOR FUTURE USE)

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CHAPTER 1: TRAFFIC CODE

ARTICLE 8 - TRAFFIC CONTROL DEVICES

8.01 INSTALLATION. The sheriff's department shall cause to be placed and maintained traffic control devices when and as required under the Traffic Code of this city to make effective its provisions; emergency or temporary traffic control devices for the duration of an emergency or temporary condition as traffic conditions may require to regulate traffic under the traffic code of this city or under state law, or to guide or warn traffic. The sheriff's department shall keep a record of all such traffic control devices.

(Code of Iowa, Sec. 321.254, 321.236(2) & 321.255)

8.02 CROSSWALKS. The sheriff's department is hereby authorized, subject to approval of the council by resolution, to designate and maintain crosswalks by appropriate traffic control devices at intersections where due to traffic conditions there is particular danger to pedestrians crossing the street or roadway, and at such other places as traffic conditions require.

(Code of Iowa, Sec. 372.13(4), 321.236(2) & 321.255)

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

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

8.04 STANDARDS. Traffic control devices shall comply with standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways.

8.05 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.

(Code of Iowa, Sec. 321.256)

8.06 MOVING OR DAMAGING DEVICE. It is unlawful for any person to move, deface or otherwise damage any sign, signal or other traffic control device placed upon the streets of the City."

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CHAPTER 1: TRAFFIC CODE

ARTICLE 9 - LOAD AND WEIGHT REQUIREMENTS

9.01 TEMPORARY EMBARGO. If the council by resolution 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 & 321.472)

9.02 PERMITS FOR EXCESS SIZE AND WEIGHT. The sheriff's department may, upon application in writing and good cause being shown therefore, 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 city ordinance over those streets 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)

9.03 LOAD LIMITS ON BRIDGES. Where it has been determined by the council, upon engineering advice, 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 sheriff's deputy 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)

9.04 TRUCK ROUTES. The following shall apply to the movement of trucks upon city streets:

1. THROUGH TRUCKS. Every motor vehicle weighing five (5) tons or more, when loaded or empty, having no fixed terminal within the city or making no scheduled or definite stops within the city for the purpose of loading or unloading shall travel over or upon the following streets within the city and none other:

a. Both county roads K16 and A18, Holder Street (IA Highway 9), and Main Street.

2. TRUCKS WITH SCHEDULED STOPS. Any motor vehicle weighing five (5) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the city for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or

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unload and return, by the most direct route to its point of departure from said designated route.

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

(Code of Iowa, Sec. 321.472)

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CHAPTER 1: TRAFFIC CODE

ARTICLE 10 - PEDESTRIANS

- 10.01 USE SIDEWALKS. Where sidewalks are provided, it shall be unlawful for any pedestrian to walk along and upon an adjacent street.
- 10.02 WALKING IN STREET. Where sidewalks are not provided, pedestrians shall at all times when walking on or along a street, walk on the left side of the street, or facing traffic on one-way streets.
(Code of Iowa, Sec. 321.326)
- 10.03 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)
- 10.04 HITCH HIKING. No person shall stand in the travelled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.
(Code of Iowa, Sec. 321.331)

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CHAPTER 1: TRAFFIC CODE

ARTICLE 11 - BICYCLES

(RESERVED FOR FUTURE USE)

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CHAPTER 1: TRAFFIC CODE

ARTICLE 12 - ENFORCEMENT

12.01 ARREST OR CITATION. Whenever a police officer has reasonable cause to believe that a person has violated any provision of this chapter such officer may:

1. IMMEDIATE ARREST. Immediately arrest such person and take the person before a local magistrate.
2. ISSUE CITATION. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety and deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant and retain the fifth copy for the records of the city law enforcement agency.

(Code of Iowa, Sec. 805.6 & 321.485)

12.02 PARKING VIOLATIONS. Admitted violations of any parking restrictions imposed by this chapter may be charged upon a simple notice of a fine in accordance with the following schedule.

1. For the violation of any provision of this chapter, the penalty shall be one-hundred dollars (\$100.00) providing such penalty is paid within thirty (30) days of the time of violation.

(Ordinance 2015-3)

2. HANDICAP PARKING VIOLATIONS. The penalty for violating the handicap parking provisions in Section 5.13 of this Chapter shall be one-hundred dollars (\$100.00).

For a parking violation not received within thirty (30) days, then a certified letter may be sent to the violator. If the payment for the said violation is not paid within seven days (7) of the time the certified letter is sent, then such matter will be turned over to the Lyon County Sheriff's Department and a State of Iowa citation will be issued against said violator.

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

(Editor's Note: Section 12.02 amended by Ordinance 73, which was approved by Council on May 4, 2009.)

12.03 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 the particular vehicle described in the information was parked in violation of this chapter, and the defendant named in the information was the registered owner at the time in question.

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

1. **DISABLED VEHICLE.** When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.
(Code of Iowa, Sec. 321.236(1))
2. **ILLEGALLY PARKED VEHICLE.** When any vehicle is left unattended upon a street and is so illegally parked as to constitute a definite hazard or obstruction to the normal movement of traffic.
(Code of Iowa, Sec. 321.236(1))
3. **PARKED OVER FORTY-EIGHT HOUR PERIOD.** When any vehicle is left parked upon a street for a continuous period of forty-eight (48) hours or more, a diligent effort shall first be made to locate the owner. If the owner is found he or she shall be given an opportunity to remove the vehicle.
(Code of Iowa, Sec. 321.236(1))
4. **COSTS.** In addition to the standard penalties provided, the owner or driver of any vehicle impounded for the violation of any of the provisions of this chapter shall be required to pay the reasonable cost of towing and storage.
(Code of Iowa, Sec. 321.236(1))

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CHAPTER 2: STREETS AND ALLEYS

ARTICLE 13 - STREET AND ALLEY REGULATIONS

- 13.01 OBSTRUCTING OR DEFACING STREETS. It shall be unlawful for any person to obstruct, deface, or injure any public road in any manner.
(Code of Iowa, Sec. 716.6)
- 13.02 INJURING NEW PAVEMENT. It shall be unlawful for any person to willfully injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.
(Code of Iowa, Sec. 364.12(2))
- 13.03 PLACING DEBRIS ON STREETS. It shall be unlawful for any person to throw or deposit on any street any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance likely to injure any person, animal or vehicle.
(Code of Iowa, Sec. 321.369)
- 13.04 REMOVAL OF WARNING DEVICES. It shall be unlawful for a person to willfully remove, throw down, destroy or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed for the purpose of guarding or enclosing unsafe or dangerous places in a highway, street, alley, avenue or bridge without the consent of the person in control.
(Code of Iowa, Sec. 716.6)
- 13.05 EXCAVATIONS. No person shall dig, excavate or in any manner disturb any street, parking or alley except in accordance with the following:
1. Permit Required. No excavation shall be commenced without first obtaining a permit therefore. 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 or alley surface; and
 - d. Date of commencement of the work and estimated completion date.

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Applicant agrees to hold City harmless in regard to any and all claims of injury or damage arising from the acts or omissions of the applicant or applicant's agent and further agrees to comply with 29CFR Part 1926.650, 651, 652 as adopted by the Iowa Division of Labor.

2. Public Convenience. Streets and alleys 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.
 - A. Bodily Injury - \$500,000.00 per person; \$1,000,000.00 per accident.
 - B. Property Damage - \$1,000,000.00 per accident.
6. Restoration of Public Property. Streets, sidewalks, alleys and other public property disturbed in the course of the work shall be restored to the condition of the property prior to the commencement of the work, or in a manner satisfactory to the City. All excavation shall be mechanically compacted in lifts not to exceed 12 inches. All excavation that requires pavement removal shall, before replacing, include sawing all paving edges and the paving will be replaced with six inches of 3500 psi concrete. In the event that the excavation is under a street, driveway, sidewalk or any other paving, the paving shall be replaced within 72 hours after the

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completion of the excavation. The City has the right to finish any improper or unfinished work to protect the public from harm. The permit holder/property owner will bear any expenses incurred. The City will be held harmless by the permit holder/property owner in regard to any and all claims of injury or damage arising from acts or omissions of the authority of the permit. It is the permit holder/property owner's responsibility to protect the public. All barricades and safety fence are the permit holder/property owner's responsibility.

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, nor resurfacing of any improved street or alley 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 or alley 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 therefore 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 Fee. A permit fee set by resolution of the Council shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.
12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.
13. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with

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all other pertinent provisions and shall post with the City a yearly bond in an amount set by resolution of the Council to guarantee such compliance.

- 13.06 DUMPING OF SNOW. It shall be 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 streets so as to obstruct gutters, or impede the passage of vehicles upon the street or to create a hazardous condition, except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the streets temporarily, such accumulation shall be removed promptly by the property owner or the property owner's agent, and only after first making arrangements for such prompt removal at the owner's cost of the accumulation within a reasonably short time.
(Code of Iowa, Sec. 364.12(2))
- 13.07 TRAVELING ON BARRICADED STREET PROHIBITED. It shall be unlawful for any person to travel or operate any vehicle on any street or public way 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.
- 13.08 PLAYING IN STREETS. It shall be unlawful for any person to coast, sled or play games on streets or highways except in the areas blocked off by authority of the sheriff's department for such purposes.
(Code of Iowa, Sec. 364.12(2))
- 13.09 WASHING VEHICLE ON STREETS PROHIBITED. It shall be unlawful for any person to use any public sidewalk or street 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 shall not be construed to prevent any person from washing or cleaning his own vehicle or equipment when it is lawfully parked in the street.
- 13.10 USE OF STREETS FOR BUSINESS PURPOSES. It shall be unlawful to park, store or place any new or used car or cars, machinery, or any other goods, wares, and merchandise of any kind upon any street for the purpose of storage, exhibition, sale or offering same for sale, without permission of the council.
- 13.11 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property line 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 in the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs, and picking up litter.

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- 13.12 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.
- 13.13 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish or other combustible material in any curb and gutter or on any paved or surfaced street or alley.
- 13.14 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 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 costs of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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CHAPTER 2: STREETS AND ALLEYS

ARTICLE 14 - NAMING OF STREETS

14.01 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. **ORDINANCE**. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by ordinance.
3. **STREET COMMISSION**. Proposed street names shall be referred to the (planning and zoning commission) (council) for review and recommendation before placing on plats or presentation of a street name ordinance, or placing on the official map.

14.02 RECORDING STREET NAMES. Following adoption of an ordinance naming or changing the name of a street, the mayor and clerk shall certify and file copy thereof with the county recorder and county auditor.

(Code of Iowa, Sec. 409.17)

14.03 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 article. 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 14.03 of Title IV of the Municipal Code of Larchwood, Iowa.

14.04 REVISION OF STREET NAME MAP. If in accordance with the provisions of this Article, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the amendment has been approved by the governing body with an entry on the Official Street Name Map as follows: "On (date), by official action of the city council, the following change(s) were made in the Official Street Name Map: (brief description)," which entry shall be signed by the mayor and attested by the clerk. No amendment to this article which involves naming or changing the name of a street shall become effective until after such change and entry has been made on said map.

14.05 CHANGING NAME OF STREET. The council may by ordinance change the name of a street.

(Code of Iowa, Sec. 409.17)

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CHAPTER 2: STREETS AND ALLEYS

ARTICLE 15 - VACATION AND DISPOSAL

15.01 POWER TO VACATE. When in the judgment of the council it would be in the best interest of the city to vacate a street or alley, or portion of a street or alley, they may do so in accordance with the provisions of this article.

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

15.02 NOTICE OF VACATION HEARING. The council shall cause to be published a notice of public hearing, at which time the proposal to vacate shall be considered. In addition to published notice, notice shall be posted at least twice on each block along the street or alley proposed to be vacated not more than 25 days nor less than 10 days prior to the date set for the hearing.

15.03 FINDINGS REQUIRED. No street or alley, or portion of a street or alley shall be vacated unless the council finds that:

1. PUBLIC USE. The street or alley proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. ABUTTING PROPERTY. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

(Code of Iowa, Sec. 364.15)

15.04 DISPOSAL OF STREETS OR ALLEYS. When in the judgment of the council it would be in the best interest of the city to dispose of a vacated street or alley, or portion of a street or alley, they may do so by resolution following notice and hearing.

(Code of Iowa, Sec. 364.7)

15.05 DISPOSAL BY GIFT LIMITED. The city may not dispose of a vacated street or alley, or portion of a street or alley, by gift except to a governmental body for a public purpose.

(Code of Iowa, Sec. 364.7(3))

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CHAPTER 2: STREETS AND ALLEYS

ARTICLE 16 - STREET GRADES

- 16.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks which have been established by ordinance are hereby confirmed, ratified and established as official grades.
- 16.02 RECORD MAINTAINED. The clerk shall maintain a record of all established grades and furnish information concerning such grades upon request. The ordinances that established the official grades of streets, alleys and sidewalks are:

<u>ORDINANCE NO.</u>	<u>ADOPTED</u>
42	August 2, 1943

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CHAPTER 2: STREETS AND ALLEYS

ARTICLE 17 - SNOW REMOVAL

17.01 DEFINITIONS. For use in this article, the following terms are defined:

1. "SNOW DAY" shall mean any day of the year that snow falls to an accumulated amount of two inches or more.
2. "SNOW PLOWING" shall mean the pushing of snow by mechanical means from the center of the traveled portion of the street to the outside edges of the traveled portion of the street.
3. "SNOW REMOVAL" shall mean the loading and hauling away of snow from the street rights-of-way.

17.02 SNOW REMOVAL. To facilitate the removal of snow, special and temporary no parking areas will be established at the direction of the city council. There shall be no parking on Broadway Street after 2 a.m. on "Snow Removal Days". All vehicles making deliveries or picking up cargo during this period on "Snow Removal Days" will be exempt.

17.03 ENFORCEMENT. The sheriff's department shall be responsible for the enforcement of said special parking restrictions when they are in effect. When a motor vehicle is parked in violation of the special parking restrictions, a sheriff's deputy shall attempt to locate the owner of the vehicle to have it removed. If the owner cannot be located after reasonable attempts, the vehicle shall be towed away at the direction of the sheriff's deputy, and the cost of the towing shall be charged to the owner of the vehicle.

17.04 SPECIAL PENALTY. Any person who violates or fails to comply with the provisions of this article shall be guilty of a simple misdemeanor and shall be fined in accordance with the amount set forth below.

1. **FIRST VIOLATION.** For the first violation of any provision of this chapter, the penalty shall be twenty-five dollars (\$25.00) providing such penalty is paid within 30 days of date upon which violation occurred.
2. **SECOND VIOLATION.** For any second violation, within twenty-four (24) hours of the first violation, the penalty shall be the sum of twenty-five dollars (\$25.00) if paid within thirty days upon which violation occurred.
3. **SUBSEQUENT VIOLATIONS.** For any subsequent violation within any twenty-four (24) hour period, the penalty shall be not less than twenty-five dollars \$25.00.

(Code of Iowa, Sec. 321.236)

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CHAPTER 2: STREETS AND ALLEYS

ARTICLE 18 - BUILDING NUMBERING

18.01 DEFINITIONS. For use in this article the following shall be defined:

1. "PRINCIPAL BUILDING" shall mean the main building on any lot or subdivision.
2. "OWNER" shall mean the owner of the principal building.

18.02 OWNER REQUIREMENTS. Every owner shall comply with the following building number requirements:

1. **OBTAIN BUILDING NUMBER.** The owner shall obtain the assigned number to his 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 maintain 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 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))

18.03 BUILDING NUMBERING MAP. The clerk shall be responsible for preparing and maintaining a building numbering map, in accordance with the following provisions, and filing it in his office.

1. **BASE LINES.** (**street name**) constitutes the base line for the numbering system as applied to streets running east and west. (**street name**) constitutes the base line for the numbering system as applied to streets running north and south.
2. **DIAGONAL AND CURVED STREETS.** Diagonal and curved streets are classified as east and west or north and south streets depending in which classification their general alignment most nearly conforms.
3. **EVEN NUMBERS.** Even numbers shall be assigned to principal buildings fronting on the west side of streets running north and south and on the south

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side of streets running east and west.

4. ODD NUMBERS. Odd numbers shall be assigned to principal buildings fronting on the east side of streets running north and south and on the north side of streets running east and west.
 5. ASSIGNMENT OF NUMBERS TO PROPERTIES. Each principal building shall be assigned a number in accordance with the provisions of this section. In case there are vacant lots or double lots, numbers shall be reserved to provide for an orderly numbering system when the lots are occupied or divided.
- 18.04 ISSUE NUMBERS. The clerk shall issue the assigned number in accordance with the numbering map to owners upon their request.
- 18.05 ENFORCEMENT. The clerk shall be responsible for enforcing the provisions of this article.

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CHAPTER 3: SIDEWALKS

ARTICLE 19 - SIDEWALK REGULATIONS

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

1. "BROOM FINISH" shall mean a sidewalk finish that is made by sweeping the sidewalk when it is hardening.
2. "ESTABLISHED GRADE" shall mean that grade established by this city for the particular area in which a sidewalk is to be constructed.
3. "ONE-COURSE CONSTRUCTION" shall mean 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" shall mean any type of cement except bituminous cement.
6. "SIDEWALK" shall mean 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" shall mean a sidewalk finish that is made by smoothing the surface of the sidewalk with wooden trowel.

19.02 RESPONSIBILITY FOR MAINTENANCE. It shall be 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 travelled portion of the public street.

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

19.03 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

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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)

19.04 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))

19.05 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)

19.06 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. MATERIAL. Portland cement concrete shall be the only material 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 placed so that the surface will be to the established grade at its location.
5. LENGTH, WIDTH AND DEPTH.
 - a. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.

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- 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 and width.
 - c. Driveway areas shall not be less than six (6) inches in thickness.
6. LOCATION. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the council shall establish a different distance due to circumstances.
 7. GRADE. Curb tops shall be on level with the center line 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 when at the curb and not less than one-half (1/2) inch above the curb for each foot between the curb and the sidewalk in residential areas.
 9. SLOPE. All sidewalks shall slope 0.25 inch per foot toward the curb.
 10. FINISH. All sidewalks shall be finished with a "broom" or "wood float" finish.
 11. RAMPS FOR HANDICAPPED. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty inches wide, shall be sloped at not greater than one (1) inch of rise per twelve inches lineal distance, except that a slope no greater than one (1) inch or rise per eight inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically handicapped persons using the sidewalk.
(Code of Iowa, Sec. 216C.9)
- 19.07 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.
- 19.08 OPENINGS AND ENCLOSURES. It shall be 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.

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3. PROTECT OPENINGS. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.
- 19.09 ENCROACHING STEPS. It shall be 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.
- 19.10 AWNINGS. It shall be unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least seven (7) feet above the surface of the street or 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.
- 19.11 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It shall be the responsibility of the abutting property owners to promptly remove from the sidewalk's natural accumulations of snow and ice (including ice formed from water flowing onto the walk and freezing). In the Commercial Districts as defined in the City of Larchwood Zoning Ordinance, a reasonable time shall be twelve (12) hours from the cessation of snowfall. In all other areas of the City, a reasonable time shall be deemed to be twenty-four (24) hours from the cessation of snowfall. If an abutting property owner does not remove snow and ice within the time specified in this Section, the City may do so and assess the costs, including a reasonable administration fee, against the property owner for collection in the same manner as a property tax pursuant to Section 364.12(2)(e) of the Code of Iowa.
- 19.12 FIRES ON SIDEWALK. It shall be unlawful for a person to make a fire of any kind on any sidewalk.
- 19.13 FUEL ON SIDEWALK. It shall be unlawful for a person to place or allow any fuel to remain upon any sidewalk.
- 19.14 DEFACING. It shall be unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.
- 19.15 DEBRIS ON SIDEWALKS. It shall be unlawful for a person to throw or deposit on any sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or other substance likely to injure any person, animal or vehicle properly using the sidewalk.
(Code of Iowa, Sec. 364.12(2))

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- 19.16 MERCHANDISE DISPLAY. It shall be 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 a building in the business district be occupied for such purposes.
- 19.17 SALES STANDS. It shall be unlawful for a person to erect or keep any stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the clerk.
- 19.18 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.
- 19.19 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.
- 19.20 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.

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CHAPTER 4: SNOWMOBILES

ARTICLE 20 - GENERAL PROVISIONS

20.01 DEFINITIONS. For use in this article the following terms shall be defined:

1. "SNOWMOBILE" shall mean a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.
2. "OPERATOR" shall mean a person who operates or is in actual physical control of a snowmobile.
3. "OPERATE" shall mean to ride in or on and control the operation of a snowmobile.
4. "STREET" shall mean a public thoroughfare, roadway, alley, or trail used for motor vehicular traffic including an interstate, state, or county highway.
5. "SHOULDER" shall mean the portion of a street immediately adjacent to the right side of a street which is customarily used only for emergency travel and parking.
6. "DEAD MAN THROTTLE" shall mean a device which disengages the motor from the driving track of a snowmobile when pressure is removed from the accelerator or throttle.

20.02 HOURS OF OPERATION. No person shall operate a snowmobile on public or private property within the city between the hours of 11:00 p.m. and 6:00 a.m. except when responding to an emergency.

20.03 AGE OF OPERATION. No minor under 16 years of age may operate snowmobile within the corporate limits of the city.

20.04 OPERATION OF SNOWMOBILE. A snowmobile may not be operated on any street, shoulder of a street, sidewalk, public property, city park, or any other area within the corporate limits of the city except as specifically permitted as follows:
(Code of Iowa, Sec. 321G.9(4a))

1. DURING EMERGENCY. On streets in an emergency during the period of time when at locations where snow and ice upon the streets render travel by conventional motor vehicles impractical and unsafe.
2. TRAILS. On trails in city parks or on other public property which is specially designated by the city council and which is marked by appropriate signs

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giving notice that snowmobiles may be operated in the area.

3. PRIVATE PROPERTY. On the private property of the operator or owner of a snowmobile or on any other private property in the city with the consent or permission of the property owner.
4. PUBLIC AREAS PROVIDED FOR SNOWMOBILES. On other public areas specifically provided by the council by resolution. Such resolutions shall limit snowmobile operation on such public areas to no more than 30 days at one time, shall designate the hours during which snowmobiles may be operated in the area, and shall provide that the areas be posted notifying the public of these requirements.

20.05 ADEQUATE SNOW AND ICE COVER. A snowmobile may not be operated within the city on public or private property without adequate snow or ice cover. A snow or ice cover of no less than four (4) inches shall be deemed adequate.

20.06 CROSSING OF STREET. A snowmobile may make a direct crossing of a street or highway provided all of the following occur:

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

1. NINETY DEGREE ANGLE. The crossing is made at an angle of approximately ninety (90) degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing; and
2. COMPLETE STOP. The snowmobile is brought to a complete stop before crossing the shoulder or main traveled portion of the street, and
3. YIELD TO TRAFFIC. The driver yields the right-of-way to all oncoming traffic which constitutes an immediate hazard; and
4. CROSSING AT INTERSECTION. In crossing a divided highway, the crossing is made only at an intersection of such highway with another public street or highway.

20.07 REQUIRED EQUIPMENT. All snowmobiles operated within the city shall have the following equipment:

1. MUFFLER. An effective and suitable muffling device that reduces the noise of operation of a snowmobile manufactured before July 1, 1973, to not more than 86 decibels, those manufactured before July 1, 1975, that limits engine noise to 82 decibels, and those manufactured since July 1, 1975, that limits engine noise to not more than 78 decibels, as provided by State law.

(Code of Iowa, Sec. 321G.11)

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2. LIGHTS. At least one headlight and one taillight.
(Code of Iowa, Sec. 321G.12)
3. BRAKES. Brakes which conform to standards prescribed by the commissioner of public safety.
4. SAFETY THROTTLE. A safety or "dead man" throttle in operating condition.
5. FLAG. All snowmobiles while operating on an uncongested street shall display a pennant or flag at least sixty (60) inches above the ground. Said pennant or flag shall be a minimum of six inches by nine inches, shall be orange, and shall provide a fluorescent effect.
(Code of Iowa, Sec. 321G.13(9))

20.08 UNLAWFUL OPERATION. It shall be unlawful for any person to operate any snowmobile in the city in the manner described:

1. SPEED. At a rate of speed greater than fifteen (15) miles per hour, provided the circumstances are not such that a lesser speed would be prudent.
(Code of Iowa, Sec. 321G.13(1a))
2. CARELESS MANNER. In a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.
(Code of Iowa, Sec. 321G.13(1b))
3. UNDER THE INFLUENCE. While under the influence of intoxicating liquor or narcotics or habit-forming drugs.
(Code of Iowa, Sec. 321.13(1c))
4. IMPROPER EQUIPMENT. Without a proper headlight from sunset to sunrise and at such other times when conditions provide insufficient lighting to render clearly discernible persons and vehicles at a distance of 500 feet ahead; or without proper equipment as required by Section 22.07 of this Article.
(Code of Iowa, Sec. 321G.13(1d))
5. IN TREE NURSERY. In any tree nursery or planting in a manner which damages or destroys growing stock.
(Code of Iowa, Sec. 321G.13 (1e))
6. FIREARMS. With any firearms in the vehicle, except in the possession of a peace officer.
7. UNREGISTERED SNOWMOBILE. Without having such snowmobile registered as provided for by Iowa law except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or

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a member of his immediate family.

8. **WITHOUT INSURANCE.** Without having in force at time of operation, a policy of insurance affording coverage for the operation of a snowmobile against liability imposed by law for bodily injury or death and for property damage. The minimum limits of coverage required of an owner shall be \$10,000 for one person who is injured or killed in any one accident and \$20,000 for two or more persons who are injured or killed in one accident. For property damage, the minimum coverage shall be \$5,000. If requested by a peace officer (or other designated city official or employee), an owner or operator of a snowmobile shall present proof within 24 hours that a policy of insurance is currently in force.
 9. **UNATTENDED VEHICLE.** It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with keys for starting the vehicle left in the ignition.
 10. **LOUD.** It is unlawful to operate a snowmobile in a manner as to create a loud, unnecessary or unusual noise so as to disturb with the peace and quiet of other persons.
 11. **DISPLAY OF IDENTIFICATION NUMBERS.** The owner shall display the identification number on the snowmobile in the manner described by the rules established by the Department of Natural Resources Commission.
(Code of Iowa, Sec. 321G.5)
- 20.09 **TOWING.** No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.
- 20.10 **SINGLE FILE.** Snowmobiles shall, only when permitted on the travelled way, be driven in a single file manner in the proper lane of traffic as close to the curb or edge of roadway as is possible under existing conditions.

TITLE IV

CHAPTER 5: PUBLIC RIGHT-OF-WAY

ARTICLE 21 - GENERAL PROVISIONS

21.01 CITY NOT LIABLE IMPROVEMENTS WITHIN PUBLIC RIGHT OF WAY.

1. Irrigation system, shrubs, Bush is, landscaping materials, decorative rock or concrete underground pet fences, and LON Landscaping lawn sprinklers irrigation. The city of large wood or any of its utility franchises shall not be held liable for any damage of any trees, shrubs, bushes, landscaping materials, decorative rock or concrete, underground pet fences, and lawn/landscaping (lawn sprinklers) irrigation systems within a public right of way, which results from the maintenance of, including removal of snow and ice, the installation or repair of, were the improvement of any street or utility . Any homeowner or irrigator who installs a lawn/landscaping system, trees, shrubs, bushes, landscaping materials, decorative rock or concrete, underground pet fences, and lawn/landscaping irrigation systems between the curb and the sidewalk or elsewhere within the public right away shall not hold the city liable for any claim or injury to persons or damage to property that any member of the public may suffer by reason of installation of said trees, shrubs, bushes , landscaping materials, decorative rock or concrete, underground pet fences, and lawn/landscaping irrigation systems between said curb and sidewalk or within the public right away, or hold the city liable for any damage to any trees, shrubs, bushes, landscaping materials, decorative rock or concrete, underground pet fence is, and lawn/landscaping irrigation systems which result from the maintenance of, or the installation or repair of, or the improvements of any street or utility. Underground pet fences shall not be installed between a sidewalk and curb.
2. If a mailbox is damaged by a snowplow the city will repair or replace it with a standard metal mailbox and treated post. Residents are responsible for replacing mailboxes that are knocked down by snow due to a pre-existing state of disrepair or deterioration. Custom mailboxes are placed in the public right away at the property owner's only risk and the city will not be held liable for any damage to the mailbox. City repair or replacement will be with a standard metal mailbox and treated post.

(Ordinance 6-2013)

TITLE IV

CHAPTER 6: ALL-TERRAIN VEHICLES.

ARTICLE 22 - GENERAL PROVISIONS

22.01 DEFINITION OF AN ALL - TERRAIN VEHICLE. "All - Terrain Vehicle" means a motor vehicle designed to travel on three or more wheels and designed primarily for off-road recreational use but not including farm tractors or farm equipment, construction equipment, lawn and grounds maintenance vehicles, or snowmobiles.

22.02 OPERATION OF ALL TERRAIN VEHICLES ON CITY STREETS OR ALLEYS.

1. The driver must be at least 16 years of age and have a valid driver's license;
2. Said All-Terrain Vehicle shall be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cut out, bypass or similar device;
3. If the All-Terrain Vehicle has factory installed headlights, taillights, brake lights and turning signals they must be in working order and used. Vehicles without any lights may only be operated as provided under Iowa Code Chapter 321;
4. the all-terrain vehicle has financial liability coverage as defined under Iowa Code Section 321.124B;
5. The All-Terrain Vehicle is driven at the speed of 25 mph or less.

(Ordinance 3, approved December 6, 2010)

TITLE V

TITLE V - BUSINESS, OCCUPATIONS, AND BUILDING REGULATIONS

TITLE V

CHAPTER 1: LIQUOR AND BEER CONTROL

ARTICLE 1 - GENERAL PROVISIONS

- 1.01 PURPOSE. The purpose of this chapter is to provide administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer and liquor, for the protection of the safety, morals and general welfare of this community.
- 1.02 DEFINITIONS. Where words and phrases used in this chapter are defined by state law, such definitions shall apply to their use in this chapter and are adopted by reference. Those definitions so adopted that need further definition or are reiterated, and other words and phrases used herein, shall have the following meanings:
1. "Person of Good Moral Character" shall mean any person who meets all of the following requirements:
(Code of Iowa, Sec. 123.3(12))
 - a. Has such financial standing and good reputation as will satisfy the commission and the administrator that he or she will comply with the Iowa Beer and Liquor Control Act and all other laws, ordinances and regulations applicable to his operations under state law. The administrator shall not require the person to post a bond to meet the requirements of this paragraph.
 - b. Does not possess a federal gambling stamp.
 - c. Is not prohibited by the Code of Iowa from obtaining a liquor license or beer permit.
(Code of Iowa, Sec. 123.40)
 - d. Is a Citizen of the United States and a resident of Iowa, or licensed to do business in Iowa in the case of a corporation.
 - e. Has not been convicted of a felony. However, if his conviction of a felony occurred more than five (5) years before the application for a license or permit, and if his rights of citizenship have been restored by the Governor, the administrator may determine that he or she is a person of good moral character notwithstanding such conviction.
 - f. If such person is a corporation, partnership, association, club, or hotel or motel, the requirements of this subsection shall apply to each of the officers, administrators and partners of such person, and to any person who directly

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or indirectly owns or controls ten (10) percent or more of any class of stock of such person or has an interest of ten (10) percent or more in the ownership or profits of such person. For the purpose of this provision, an individual and his spouse shall be regarded as one person.

2. "Club" shall mean any nonprofit corporation or association of individuals, which is the owner, lessee or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.
(Code of Iowa, Sec. 123.3(29))
 3. "Commercial establishment" shall mean a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time, and the licensed premises of which conform to the ordinances of the city.
(Code of Iowa, Sec. 123.3(30))
 4. "Grocery store" shall mean any retail establishment, the business of which consists of the sale of food products or beverages for consumption off the premises.
(Code of Iowa, Sec. 123.129)
 5. "Pharmacy" shall mean a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and surgeons, dentists or veterinarians are compounded and sold by a registered pharmacist.
(Code of Iowa, Sec. 123.129)
 6. "Hotel or Motel" shall mean a premise licensed by the state department of agriculture and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty (20) or more sleeping rooms.
(Code of Iowa, Sec. 123.3(32))
 7. "Legal age" shall mean twenty-one (21) years of age or more.
 8. "Administrator" shall mean the administrator of the division.
(Code of Iowa, Sec. 123.3(3))
 9. "Department" shall mean the alcoholic beverages division of the Iowa Department of Commerce.
(Code of Iowa, Sec. 123.3(2))
- 1.03 STATE LIQUOR STORE LOCATION. No liquor store shall be located within three hundred (300) feet of a public or private educational institution.

TITLE V

1.04 PERSONS UNDER LEGAL AGE.

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 the 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 beer permittee under State laws.

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

1.05 PUBLIC CONSUMPTION OR INTOXICATION AND OPEN CONTAINER IN PUBLIC PLACES.

Except as noted below, it is unlawful for any person to consume alcoholic liquors or beer upon the public streets or highways, or alcoholic liquors in any public place, except premises covered by a liquor control license, or to possess or consume alcoholic liquors or beer on any public school property or while attending any public or private school related function, and no person shall be intoxicated nor simulate intoxication in a public place. As used in this section "school" means a school or that portion thereof which provides teaching for any grade from kindergarten through grade twelve (12).

(Code of Iowa, Sec 123.46(2))

- ### 1.06 OPEN CONTAINERS IN A MOTOR VEHICLE - 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. "Passenger area" means the area 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.

(Code of Iowa, Sec. 321.284)

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CHAPTER 1: LIQUOR, BEER AND WINE CONTROL

ARTICLE 2 - BEER AND WINE PERMITS AND LIQUOR LICENSES

2.01 LICENSE OR PERMIT REQUIRED. It shall be unlawful for any person to sell, offer or keep for sale alcoholic liquor, wine, or beer without first securing a liquor control license or beer or wine permit in accordance with the provisions of this chapter and state law.

(Code of Iowa, Sec. 123.2)

2.02 NATURE OF LICENSE OR PERMIT. A liquor control license or beer permit or wine permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be alienable nor assignable, and in any case it shall cease upon the death of the permittee or licensee. However, the administrator may in his discretion allow the executor or administrator of a permittee or licensee to operate the business of the descendant for a reasonable time not to exceed the expiration date of the permit or license. Every permit or license shall be issued in the name of the applicant and no person holding a permit or license shall allow any other person to use same.

(Code of Iowa, Sec. 123.38)

2.03 BEER PERMITS - CLASSES. Beer permits shall be classed as follows:

1. CLASS "B". A class "B" beer permit shall allow the holder to sell beer at retail for consumption on or off the premises.

(Code of Iowa, Sec. 123.124&123.131)

2. CLASS "C". A class "C" beer permit shall allow the holder to sell beer at retail for consumption off the premises only. Such sales shall be in original containers only. No class "C" permit shall be issued to any person except the owner or proprietor of a grocery store or pharmacy.

(Code of Iowa, Sec. 123.124 & 123.129)

2.04 WINE PERMITS-CLASSES. Wine permits shall be classed as follows:

1. CLASS "A". A class "A" wine permit shall allow the holder to manufacture and sell, or sell at wholesale, wine for consumption off the premises.

(Code of Iowa, 123.173 & 123.177)

2. CLASS "B". A class "B" wine permit shall allow the holder to sell wine at retail for consumption off the premises.

(Code of Iowa, 123.173 & 123.177)

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2.05 LIQUOR LICENSES - CLASSES. Liquor control licenses shall be classed as follows:

1. CLASS "A". A class "A" liquor control license may be issued to a club and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to bona fide members and their guests by the individual drink for consumption on the premises only.

(Code of Iowa, Section 123.30(3)(a))

2. CLASS "B". A class "B" liquor control license may be issued to a hotel or motel and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. Each license shall be effective throughout the premises.

(Code of Iowa, Sec. 123.30(3)(b))

3. CLASS "C". A class "C" liquor control license may be issued to a commercial establishment but must be issued in the name of the individuals who actually own the entire business and shall authorize the holder to purchase alcoholic liquors from class "E" liquor control licensees only, wine from class "A" wine permittees only, and native wines from native wine manufacturers, and to sell liquors, wine, and beer, to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises.

A special class "C" liquor control license may be issued and shall authorize the holder to purchase wine from class "A" wine permittees only, and to sell wine and beer to patrons by the individual drink for consumption on the premises only. However, beer may also be sold for consumption off the premises. The license issued to holders of a special class "C" license shall clearly state on its face that the license is limited.

(Code of Iowa, Sec. 123.30(3)(c))

4. CLASS "E". A class "E" liquor control license may be issued and shall authorize the holder to purchase alcoholic liquor from the division only and to sell the alcoholic liquor to patrons for consumption off the licensed premise and to other liquor control licensees. A class "E" license shall not be issued to premises at which gasoline is sold. A holder of a class "E" liquor control license may hold other liquor control licenses, wine or beer permits, but the premises licensed under a class "E" liquor control license shall be separate from other licensed premises, though the separate premises may have a common entrance.

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However, the holder of a class "E" liquor control license may also hold a class "B" wine or class "C" beer permit or both for the premises licensed under a class "E" liquor control license. The division may issue a Class "E" liquor control license for premises covered by a liquor control license or wine or beer permit for on-premise consumption, if the premises are in a county having a population under nine thousand five hundred in which no other class "E" liquor control license has been issued by the division, and no other applicant for a class "E" license has been made within the previous twelve consecutive months.

(Code of Iowa, Section 123.30(3)(e))

- 2.06 APPLICATION. A verified application for the original issuance or the renewal of a liquor control license or a beer permit or wine permit shall be filed at such time, in such number of copies and in such form as the administrator shall prescribe, on forms prescribed by the administrator.

(Code of Iowa, Sec. 123.31)

- 2.07 BOND FILED. The application shall be accompanied by the necessary fee and bond, if required, and be filed with the council for approval or disapproval.

(Code of Iowa, Sec. 123.32 & 123.127)

1. LIQUOR CONTROL LICENSE. Upon posting bond in the penal sum of \$5,000.00, and conditioned upon the payment of all taxes payable to the state under the provisions of the Iowa beer and liquor control act and compliance with all provisions of the act.

(Code of Iowa, Sec. 123.30(1))

2. BEER PERMIT AND WINE PERMIT. With class "B" and "C" beer permits, or class "A" and "B" wine permits, upon posting bond in the penal sum of \$500.00, and conditioned upon the faithful observance of the Iowa beer and liquor control act.

(Code of Iowa, Sec. 123.128&123.129)

- 2.08 CONDITIONS FOR APPROVAL. No liquor control license or beer or wine permit shall be approved unless:

1. CHARACTER OF APPLICANT. The applicant is a person of good moral character as defined by this chapter and in the case of a club, corporation or partnership, the officers of the club or corporation and the partners of a partnership are of good moral character as defined by this chapter.

(Code of Iowa, Sec. 123.30(1))

2. RIGHT OF ENTRY. The applicant gives consent in writing on the application that members of the fire and police departments may enter upon the premises without warrant to inspect for violations of the provisions of state law and of this chapter.

(Code of Iowa, Sec. 123.30(1))

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3. **ACCESS TO RESIDENTIAL OR SLEEPING QUARTERS.** No interior access to residential or sleeping quarters is permitted or maintained unless permission is granted by the administrator in the form of a living quarters permit.
(Code of Iowa, Sec. 123.30(2))
 4. **LOCATION OF PREMISES.** The premises are located within areas where such businesses are, or hereafter are, permitted by zoning regulations.
(Code of Iowa, Sec 123.128(1b))
 5. **SEATING CAPACITY.** The premises are, at the time of the application and continue to be, equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time.
(Code of Iowa, Sec. 123.128(1b))
 6. **CONFORM TO APPLICABLE LAWS.** The premises conform to all applicable laws, ordinances, resolutions, and health and fire regulations.
(Code of Iowa, Sec. 123.30(2) & 123.127(2))
- 2.09 **CIVIL LIABILITY.** Every liquor control licensee and class "B" beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the division.
(Code of Iowa, Sec. 123.92)
- 2.10 **SEPARATE LOCATIONS.** Every person holding a class "B" or class "C" beer permit or class "A" or "B" wine permit having more than one place of business where such beer or wine is sold shall be required to have a separate license for each separate place of business, except as otherwise provided by state law.
(Code of Iowa, Sec. 123.140)
- 2.11 **INVESTIGATION.** Upon receipt of an original application for a liquor license or beer or wine permit by the clerk, it shall be forwarded to any peace officer who shall conduct an investigation and submit a written report as to the truth of the facts averred in the application and a recommendation to the council as to the approval of the license or permit. It shall be the duty of the fire chief to inspect the premises to determine if they conform to the requirements of the city, and no license or permit shall be approved until or unless an approving report has been filed with the council by such officer.
(Code of Iowa, Sec. 123.30(1))

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2.12 LICENSE AND PERMIT FEES. The following fees shall be submitted with the respective application:

1. CLASS "B" BEER. For a class "B" beer license the annual fee shall be:
 - a. For cities with population under 1,500:
 - 1) Without Sunday sales privileges \$100.00
 - 2) With Sunday sales privileges \$120.00
(Code of Iowa, Sec. 123.134(2&5))
2. CLASS "C" BEER. For a class "C" beer permit the annual fee shall be graduated on the basis of the amount of interior floor space which comprises the retail sales area of the premises covered by the permit, as follows:
 - a. Up to one thousand five hundred square feet . . \$ 75.00
 - b. Over one thousand five hundred square feet
and up to two thousand square feet \$100.00
 - c. Over two thousand and up to five thousand
square feet \$200.00
 - d. Over five thousand square feet \$300.00
(Code of Iowa, Sec. 123.134(3))
 - e. A Sunday sales permit will increase the fee by 20%.
(Code of Iowa, Sec. 123.134(5))
3. CLASS "A" WINE. For a class "A" wine permit the annual fee is \$750.00.
(Code of Iowa, Sec. 123.179(1))
4. CLASS "B" WINE. For a class "B" wine permit the annual fee is \$500.00.
(Code of Iowa, Sec. 123.179(2))
5. CLASS "A" LIQUOR. For a class "A" liquor control license the annual fee shall be:
 - a. Club, less than 250 members:
without Sunday sales privileges \$400.00
with Sunday sales privileges \$480.00
 - b. Club, which is a post, branch or chapter of a veterans organization chartered by the Congress of the United States, if such club does not sell or permit the consumption of alcoholic beverages on the premises more than one day in

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any week, and if the application for a license states that such club does not and will not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week:

without Sunday sales privileges \$200.00
with Sunday sales privileges \$240.00
(Code of Iowa, Sec. 123.36(2))

6. CLASS "B" LIQUOR. For a class "B" liquor control license the annual fee shall be:

- a. Cities of 3,000 or less population . . . \$800.00
- b. The fee is 20% more for Sunday sales.
(Code of Iowa, Sec. 123.36(3))

7. CLASS "C" LIQUOR. For a class "C" liquor control license the annual fee shall be:

- a. Cities of 1,500 population or less \$600.00
- b. The fee is 20% more for Sunday sales.
(Code of Iowa, Sec. 123.36(4,6))

8. CLASS "E" LIQUOR. For a class "E" liquor license, the annual fee is a sum of not less than \$750.00, and not more than \$7,500.00 as determined on a sliding scale as established by the division taking into account the factors of square footage of the licensed premises, the location of the licensed premises and the population of the area of the location of the licensed premises.
(Code of Iowa, Sec.123.36(9))

2.13 SURCHARGE. There is imposed a surcharge on the fee for each class "A", "B" or "C" liquor license equal to 30% of the scheduled license fee to be collected and deposited as provided in the Code of Iowa.
(Code of Iowa, Sec.123.36(10))

2.14 SEASONAL PERMITS. Six (6) or eight (8) month seasonal licenses or beer permits may be issued for a proportionate part of the license or permit fee. No seasonal license or permit shall be renewed except after a period of two (2) months. Seasonal licensing shall be only as permitted by state law.
(Code of Iowa, Sec. 123.34(1))

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- 2.15 ACTION BY COUNCIL. Action taken by the council shall be so endorsed on the application and thereafter the application, fee and bond shall be forwarded to the division for such further action as is provided by law.
(Code of Iowa, Sec. 123.32(2))
- 2.16 EXPIRATION. All liquor control licenses and beer permits, unless sooner suspended or revoked, shall expire one year from date of issuance.
(Code of Iowa, Sec. 123.34(1))
- 2.17 REFUNDS. Any such licensee or permittee, or his executor, administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of his creditors, may voluntarily surrender such license or permit to the department and shall notify the city, and the department and the city, or the city by itself in the case of a retail beer or wine permit, shall refund to the person so surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows:
1. BEFORE THREE MONTH PERIOD. If surrendered during the first three (3) months of the period for which said license or permit was issued the refund shall be three-fourths of the amount of the fee.
 2. SIX MONTH PERIOD. If surrendered more than three (3) months but not more than six (6) months after issuance the refund shall be one-half of the amount of the fee.
 3. SIX - NINE MONTH PERIOD. If surrendered more than six (6) months but not more than nine (9) months after issuance the refund shall be one-fourth of the amount of the fee.
 4. AFTER NINE MONTH PERIOD. No refund shall be made, however, for a liquor control license or beer or wine permit surrendered more than nine (9) months after issuance.
 5. SUNDAY SALES. No refund will be given on the Sunday Sales portion of a license or permit fee.
 6. COMPLAINT FILED. No refund shall be made to any licensee or permittee, upon the surrender of his license or permit, if there is at the time of said surrender a complaint filed with the department or the city, charging him or her with a violation of this chapter or provisions of the Iowa beer and liquor control act.
 7. HEARING ON COMPLAINT. If upon hearing on any such complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of his license or permit, to receive a refund as herein provided. But if his license or permit is revoked or suspended upon such hearing

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he or she shall not be eligible for the refund of any portion of his license or permit fee.

8. SEASONAL LICENSES OR PERMITS. No refund shall be made for seasonal licenses or permits.

(Code of Iowa, Sec. 123.38)

- 2.18 TRANSFERS. The council may, in its discretion, authorize a licensee or permittee to transfer the license or permit from one location to another within the city, provided that the premises to which the transfer is to be made would have been eligible for a license or permit in the first instance and such transfer will not result in the violation of any law or ordinance. An applicant for such a transfer shall file with the application a transfer fee in the amount of (\$15.00 or \$25.00).

(Code of Iowa, Sec. 123.38)

- 2.19 SIMPLIFIED APPLICATION FOR RENEWAL. Upon receipt of an application for the renewal of a liquor license or beer permit, it shall be forwarded to the sheriff's department, who shall verify that the qualifications have not changed from the original application, and give a recommendation to the council as to the approval of the license or permit.

(Code of Iowa, Sec. 123.35)

- 2.20 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 liquor or beer on the premises covered by the license or permit, or permit the consumption thereon, between the hours of two a.m. and six a.m. on any weekday and between the hours of two a.m. and noon on Sunday and ten p.m. on Sunday and six 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))

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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. BEER BRAND SIGNS PROHIBITED. Permit any signs or other matter advertising any brand of beer to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell beer at retail.
(Code of Iowa, Sec. 123.51)
9. NUDE CONDUCT PROHIBITED. Cause, permit, procure, counsel or assist any person who is acting as a waiter, waitress, host, hostess, dancer, or entertainer on the licensed premises to:
 - a. Expose his or her genitals, pubic hair, buttocks, perineum, anus region, or pubic air region; or
 - b. Expose or wear any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks perineum, anus region, or pubic hair region; or
 - c. Expose any portion of the female breast at or below the nipple thereof; or
 - d. Allows or permits any person to remain in or upon the place of business who exposes to public view the person's genitals, pubic hair, or anus.
 - e. Advertises that any activity prohibited by this section is allowed or permitted in such place of business.
 - f. If such person allows or permits a minor to engage in or otherwise perform in a live act intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

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For purposes of this subsection a person shall be deemed a waiter, waitress, host, hostess, dancer, or entertainer if such person acts in that capacity without regard to whether such person is paid any compensation by the liquor control licensee or beer permittee, his agent or employee.

The provisions of this section shall not apply to a theater, concert hall, art center, museum, or similar establishment which is primarily devoted to the arts or theatrical performances and in which any of the circumstances contained in this section were permitted or allowed as part of such art exhibits or performances.

(Code of Iowa, Sec. 728.5)

2.21 OPTIONAL SUSPENSION OR REVOCATION. Following a written notice and hearing, as provided by this article, a liquor license or beer or wine permit may be suspended by the council for a period up to one year for violations of the municipal code, or suspended for a period up to one year or revoked by the council for any of the following causes:

(Code of Iowa, Sec. 123.39)

1. MISREPRESENTATION. Misrepresentation of any material fact in the application for such license or permit.

(Code of Iowa, Sec. 123.39(1))

2. VIOLATIONS. Violations of any of the provisions of the Iowa beer and liquor control act.

(Code of Iowa, Sec. 123.39(2))

3. CHANGE IN OWNERSHIP. Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any beer permit which change was not previously reported to and approved by the city and the division.

(Code of Iowa, Sec. 123.39(3))

4. ORIGINAL DISQUALIFICATIONS. Any event which would have resulted in disqualification from receiving such license or permit when originally issued.

(Code of Iowa, Sec. 123.39(4))

5. SALE OR TRANSFER. Any sale, hypothecation or transfer of such license or permit.

(Code of Iowa, Sec. 123.39(5))

6. PAYMENT OF TAXES. The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the division under the state law.

(Code of Iowa, Sec. 123.39(6))

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7. **CONVICTION OF PROHIBITED SALE OR ACT.** The conviction of any liquor control licensee or beer or wine permittee for a violation of any of the provisions of section 2.20 shall, subject to section 2.22, be grounds for the suspension or revocation of the license or permit by the division or the city. However, if any liquor control licensee is convicted of any violation Code of Iowa 123.49, subsection 2, paragraph "a", "d" or "e", of that section, or any wine or beer permittee is convicted of a violation of paragraph "a" or "e" of that section, the liquor control license, wine permit, or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond, if any, of the license or permit holder shall be forfeited to the division.

(Code of Iowa, Sec. 123.50(2))

2.22 MANDATORY SUSPENSION OR REVOCATION. A license or permit shall be suspended or revoked by the city council in accordance with the following:

1. **SALE TO MINORS OR "SPIKING".** If any licensee, beer or wine permittee, or employee of such licensee or permittee is convicted of a violation of section 2.20(5) or a retail beer permittee is convicted of a violation of subsection 6 of said section, the city shall, in addition to the other penalties fixed for such violations by this article, assess a penalty as follows:

- a. A first violation shall subject the licensee or permittee to a civil penalty in the amount of five hundred dollars. Failure to pay the civil penalty as ordered under Code of Iowa, Section 123.39 shall result in automatic suspension of the license or permit for a period of fourteen days.

(Code of Iowa, Sec. 123.50(3a))

- b. A second violation within two years shall subject the licensee or permittee to a thirty-day suspension and a civil penalty in the amount of one thousand dollars.

(Code of Iowa, Sec. 123.50(3b))

- c. A third violation within three years shall subject the licensee or permittee to a sixty-day suspension and a civil penalty in the amount of one thousand dollars.

(Code of Iowa, Sec. 123.50(3c))

- d. A fourth violation within three years shall result in revocation of the license or permit.

(Code of Iowa, Sec. 123.50(3d))

- e. For purposes of this subsection:

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- (1) The date of any violation shall be used in determining the period between violations.
 - (2) Suspension shall be limited to the specific license or permit for the premises found in violation.
 - (3) Notwithstanding Code of Iowa, section 123.40, revocation shall be limited to the specific license or permit found in violation and shall not disqualify a licensee or permittee from holding a license or permit at a separate location.
(Code of Iowa, Sec. 123.50(3e))
2. In addition to any other penalties imposed under this chapter, the division shall assess a civil penalty up to the amount of five thousand dollars upon a class "E" liquor control licensee when the class "E" liquor license is revoked for a violation of Code of Iowa, section 123.59. Failure to pay the civil penalty as required under this subsection shall result in forfeiture of the bond to the division.
- 2.23 DEPARTMENT NOTIFIED. When the city council revokes or suspends a liquor license or beer or wine permit, the alcoholic beverages division of the Iowa Department of Commerce shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same.
- 2.24 APPEAL TO STATE AND COURT. The right of appeal to the hearing board shall be afforded a liquor control licensee or beer or wine permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the administrator or city disapproving, suspending or revoking issuance of a liquor control license or beer permit may appeal pursuant to the Iowa Administrative Procedures Act. A city may appeal a decision of the hearing board as provided by statute.
(Code of Iowa, Sec. 123.32(4 & 5))
- 2.25 EFFECT OF REVOCATION. Any liquor control licensee or beer or wine permittee whose license or permit is revoked under the Iowa beer and liquor control act shall not thereafter be permitted to hold a liquor control license or beer or wine permit in the state of Iowa for a period of two (2) years from the date of such revocation. The spouse and business associates holding ten (10) percent or more of the capital stock or ownership interest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license or beer or wine permit, and no liquor control license or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of such revocation. In the event a license or permit is revoked, the premises which have been covered by such license or permit shall not be

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relicensed for one year.

(Code of Iowa, Sec. 123.40)

2.26 HEARING ON SUSPENSION OR REVOCATION. The council shall conduct a hearing on each suspension or revocation in the following manner:

1. NOTICE. The permit holder, and the surety on his bond, shall be served with written notice containing a copy of the complaint against him or her, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.
2. HEARING. The council shall conduct a hearing, at which both the permit holder and complainants shall be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or his authorized representative fail to appear without good cause, the council may proceed to a determination of the complaint.
3. RIGHTS OF PERMIT HOLDER. The permit holder shall have the right to be represented by counsel, to testify and present witnesses in his own behalf, and to cross-examine adverse witnesses.
4. EVIDENCE. The council shall admit only reliable and substantial evidence into the revocation or suspension proceeding, and shall give all admitted evidence its natural probative value.
5. CRIMINAL CHARGES. In the event that criminal charges have been brought against the permit holder on the same facts and circumstances as are the basis for the revocation or suspension complaint, the council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.
6. RECORD AND DETERMINATION. The council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter or state law.

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CHAPTER 2: CIGARETTE PERMITS

ARTICLE 3 - GENERAL PROVISIONS

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

1. "Alternative nicotine product" means a product, not consisting of or containing tobacco, that provides for the ingestion into the body of nicotine, whether by chewing, absorbing, dissolving, inhaling, snorting, or sniffing, or by any other means. "*Alternative nicotine product*" does not include cigarettes, tobacco products, or vapor products, or a product that is regulated as a drug or device by the United States food and drug administration under chapter V of the federal Food, Drug, and Cosmetic Act.

(Code of Iowa, Sec. 453A.1(1))

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. Provided the definition herein shall not be construed to include cigars.

(Code of Iowa, Sec. 453A.1(4))

3. "Person" shall mean and include every individual, firm, association, joint stock company, syndicate, partnership, corporation, trustee, agency or receiver, or respective legal representative.

(Code of Iowa, Sec. 453A.1(20))

4. "Place of Business" is construed to mean and include any place where cigarettes are sold or where cigarettes are stored within or without the State of Iowa by the holder of an Iowa permit or kept for the purpose of sale or consumption; or if sold from any vehicle or train, the vehicle or train on which or from which such cigarettes are sold shall constitute a place of business.

(Code of Iowa, Sec. 453A.1(21))

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 irrespective of quantity or amount or the number of sales.

(Code of Iowa, Sec. 453A.1(23))

6. "Tobacco Products" means the following: cigars, little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other

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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 pipe or otherwise, or both chewing and smoking, but does not mean cigarettes.

(Code of Iowa, Sec. 453A.1(28))

7. Vapor product” means any noncombustible product, which may or may not contain nicotine, that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from a solution or other substance. “Vapor product” includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device, and any cartridge or other container of a solution or other substance, which may or may not contain nicotine, that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor product” does not include a product regulated as a drug or device by the United States food and drug administration under chapter V of the federal Food, Drug, and Cosmetic Act.

(Code of Iowa, Sec. 453A.1(28))

3.02 PERMIT REQUIRED. No retailer shall sell, distribute, 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))

3.03 APPLICATION. A completed application on forms provided by the State Department of Revenue and accompanied by the fee provided in Section 3.04 shall be filed with the clerk. Renewal applications shall be filed at least 5 days prior to the last regular meeting of the council in June. If a renewal application is not timely filed, and 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(5&9))

3.04 FEES. The fee for issuing or renewing a cigarette permit shall be as follows:

(Code of Iowa, Sec. 453A.13(3))

1. For permits issued or renewed during: Fee:
(For cities under 15,000 population)

July, August, or September	\$75.00
October, November, or December	\$56.25
January, February, or March	\$37.50

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April, May, or June \$18.75

3.05 ISSUANCE. The council shall issue or renew a permit upon a determination that such issuance or renewal will not be detrimental to the public health, safety or morals, and shall certify its action in issuing a permit to the State Department of Revenue.

Upon proper application, approval by Council and payment of the required fee, a permit shall be issued to the applicant. Each permit issued shall clearly describe the place of business for which it is issued
(Code of Iowa, Sec. 453A.13(2))

3.06 DISPLAY. The permit shall, at all times, be publicly displayed by the distributor, wholesaler, or retailer at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business. The proprietor or keeper of any building or place where cigarettes and other tobacco products are kept for sale, or with intent to sell, shall upon request of any agent of the department or any peace officer exhibit the permit. A refusal or failure to exhibit the permit is prima facie evidence that the cigarettes or other tobacco products are kept for sale or with intent to sell in violation of this division.
(Code of Iowa, Sec. 453A.13(10))

3.07 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit changes his place of business, the council, if it decides to issue a new permit to him or her, shall not charge any additional fee for the unexpired term of the original permit if the retailer has not received a refund for surrender of the original permit.

3.08 EXPIRATION. Permits expire on June 30 of each year.
(Code of Iowa, Sec. 453A.13(3))

3.09 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the city except during April, May, or June, as follows:
(Code of Iowa, Sec. 453A.13(4))

1. Permits surrendered during:	Amount of refund:
(For cities under 15,000 population)	
July, August, or September	\$56.25
October, November, or December	\$37.50
January, February, or March	\$18.75

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3.10 PERSONS UNDER THE LEGAL AGE.

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

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 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 this section 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 this chapter or who lawfully offers for sale or sells cigarettes or tobacco products.
4. The alcoholic beverages division of the department of commerce, a county, or a city may directly enforce this section in district court and initiate proceedings pursuant to Code of Iowa, Section 453A.22 before a permit-issuing authority which issued the permit against a permit holder violating this section.
5. Payment and distribution of court costs, fees, and fines in a prosecution initiated by a city or county shall be made as provided in chapter 602 for violation of a city or county ordinance.
6. If a county or a city has not assessed a penalty pursuant to section 453A.22, subsection 2, for a violation of subsection 1, within sixty days of the adjudication of the violation, the matter shall be transferred to and be the exclusive responsibility of the alcoholic beverages division of the department of commerce. Following transfer of the matter, if the violation is contested, the alcoholic beverages division of the department of commerce shall request an administrative hearing before an administrative law judge, assigned by the division of administrative hearings of the department of inspections and appeals in accordance with the provisions of Code of Iowa, Section 10A.801, to adjudicate the matter pursuant to Code of Iowa, Chapter 17A.

(Code of Iowa, Sec. 453A.2 & 453A.36(6))

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- 3.11 PERMIT SUSPENSION & REVOCATION. If a retailer or employee of a retailer has violates the provisions of 3.10 of this Chapter, the Council shall, after written notice and hearing, and in addition to the standard penalty, assess the following:
- a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars. Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen days.
 - b. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars or the retailer's permit shall be suspended for a period of thirty days. The retailer may select its preference in the penalty to be applied under this paragraph.
 - c. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars and the retailer's permit shall be suspended for a period of thirty days.
 - d. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars and the retailer's permit shall be suspended for a period of sixty days.
 - e. For a fifth violation within a period of four years, the retailer's permit shall be revoked.

(Code of Iowa, 453A.22(2)(a-e))

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, 453A.22(1))

- 3.12 RENEWAL AFTER REVOCATION. Upon revocation, no new permit shall be issued to the retailer or for the place of business for one year from the date of revocation unless good cause to the contrary is shown the council.

(Code of Iowa, 453A.22(3))

- 3.13 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except as provided in Code of Iowa, Section 453A.3(6), 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.

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CHAPTER 3: LICENSING

ARTICLE 4 - GENERAL PROVISIONS

- 4.01 PURPOSE. The purpose of this chapter is to assure that in the conduct of the activities, vocations, public amusements, and provisions licensed and regulated by this chapter, the public health, safety and welfare will be protected and maintained.
- 4.02 DEFINITIONS. For use in this chapter the following terms are defined:
1. "Housemover" means any person who undertakes to move a building or similar structure upon or across the public streets, alleys, walks or property.
 2. "Junk dealer" means any person engaged in collecting, storing, buying or selling junk. "Junk" means articles or materials that, because of age, deterioration or use, have lost their original utility or desirability but that by alteration, restoration or salvage may furnish an item or items of value.
 3. "Scavenger" means any person who transports upon the public streets, alleys, sidewalks or property any refuse except refuse directly from his own property.
- 4.03 LICENSE REQUIRED. It shall be unlawful for any person to engage in any activity, vocation, profession or public amusement regulated by this chapter without a valid license from the city.
- 4.04 APPLICATION. Application for any license under this chapter shall be made in writing on forms furnished by the city clerk.
- 4.05 FEE PAYMENT. All fees required by this chapter shall be paid to the city clerk, who shall give the applicant a written receipt showing the sum received and the time of receipt.
- 4.06 ISSUANCE. If the city clerk finds that all of the conditions prescribed by this article for the issuance of a license have been satisfied, the license shall be issued immediately to the applicant. The clerk must make a determination whether to issue the license within ten (10) days from the date a completed application is submitted. If the clerk refuses to act within this ten (10) day period, the applicant shall have a right to a hearing before the council at its next regular meeting on whether the license should be issued.
- 4.07 FEES AND DURATION. The fee and duration of a license shall be:
1. ANNUAL OR DAILY LICENSE. An applicant may apply for an annual or a daily license. The annual license shall be valid for one year after the date on which it

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is issued. The daily license shall be valid for only one twenty-four (24) hour period, but the applicant may apply for and receive seven (7) daily licenses at one time. However, no daily license shall be issued more than seven (7) days before the date for which the license is valid.

2. FEE. The fees for licenses shall be:
(none)

4.08 POWER TO INSPECT AND INVESTIGATE. Upon receipt of an application for a license, the city clerk shall forward it immediately to the sheriff's department, who shall conduct an investigation and submit a written report concerning the truth of the facts stated in the application and a recommendation concerning whether or not a license should be issued. The city clerk shall notify the county or local health officer, the building inspector and the fire chief immediately, and they shall inspect the premises to determine whether the applicant meets the standards of the applicable municipal ordinances and state statutes. These officials shall submit written reports of the results of their investigation within seven (7) days after the clerk received the application. No license shall be issued until these reports have been submitted to the city clerk.

4.09 REVOCAION OF LICENSE. After giving a licensee three (3) days notice and after a hearing, the clerk may revoke any license issued under this ordinance for the following reasons:

1. FRAUDULENT STATEMENTS. The licensee has made fraudulent statements in his application for the license or in the conduct of his business.
2. VIOLATION OF CHAPTER. The licensee has violated this chapter or has otherwise conducted his business in an unlawful manner.
3. DANGER TO PUBLIC HEALTH AND SAFETY. The licensee has conducted his business in such manner as to endanger the public welfare, health, safety, order or morals.

The notice shall be in writing and shall be served personally or as required for personal service by the Iowa Rules of Civil Procedure. The notice shall state the time and place of the hearing and the reasons for the intended revocation.

4.10 APPEAL. If the city clerk revokes or refuses to issue a license, he or she shall endorse his reasons upon the application. The applicant shall have a right to a hearing before the council at its next regular meeting. The council may reverse, modify or affirm the decision of the city clerk by a majority vote of the council members present, if a quorum; and the city clerk shall carry out the council's decision.

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- 4.11 EFFECT OF REVOCATION. Revocation of a license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of revocation.
- 4.12 REBATES. Any licensee, except in the case of a revoked license, shall be entitled to a rebate of part of the fee he or she has paid if he or she surrenders his license before it expires. The amount of the rebate shall be determined by dividing the total license fee by the number of days for which the license was issued and then multiplying the result by the number of full days not expired. In all cases, at least one dollar of the original fee shall be retained by the city to cover administrative costs.
- 4.13 TRANSFER PROHIBITED. In no case shall a license issued under this chapter be transferred to another person or be used for a purpose other than that for which it was issued.
- 4.14 DISPLAY. Every person who is issued a license under the provisions of this chapter shall display the license in a conspicuous place on the premises on which the business is being conducted.
- 4.15 EXEMPTIONS. This chapter shall not be construed to require a license of each employee or agent or one engaged in a licensed occupation. Only the owner, manager or agent in charge of such an occupation need possess a license.

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CHAPTER 3: LICENSING

ARTICLE 5 - SPECIAL REQUIREMENTS

- 5.01 COMPLIANCE. Every person who is granted a license under the terms of this chapter shall comply with the following regulations that apply in his case.
- 5.02 PUBLIC DANCE HALLS. No place in which beer is sold shall hold a license for a public dance hall unless such place has complied with all the requirements of the city ordinances concerning dancing in connection with the operation of an establishment which sells beer for consumption on the premises.
- 5.03 BILLIARD HALL. No minor shall be allowed to be in any billiard hall in which beer is sold.
- 5.04 HOUSEMOVERS. The following shall apply to the license for housemovers:
1. APPLICATION. An application for housemover's license shall describe the present location and the future site of the building or similar structure to be moved.
 2. BOND. The applicant shall post with the city clerk a penal bond in the sum of \$5,000 with good and sufficient sureties approved by the clerk. The bond shall guarantee the licensee's payment for any damage done to the city or to the public property in the course of moving the building or similar structure.
 3. INSURANCE. The applicant shall show evidence that he or she is insured for not less than \$100,000 for personal injuries and \$25,000 for property damage. A penal bond for the same sum of money may be posted with the clerk in lieu of the insurance policy. The sureties on the bond shall be approved by the city clerk and the bond shall guarantee the licensee's payment for personal injuries or property damage caused by him or her or his agents or employees in the course of the moving operations.
 4. ROUTE. The applicant shall file with the clerk a routing plan approved by the sheriff's department. The sheriff's department shall approve the shortest route compatible with the greatest public convenience and safety.
 5. FLAGMEN AND WARNING SIGNS. At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the licensee 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 licensee shall maintain adequate warning signs or flares

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at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

5.05 BILL POSTERS. The following shall apply to the license for bill posters:

1. **APPLICATION.** An application for a bill poster's license shall contain a description of the boundaries of the areas of the city in which the distribution of bills is to be made. The license shall limit distribution of bills in the city to these areas.
2. **PROHIBITED LOCATIONS.** Bill posters shall not attach bills to any tree, pole, sidewalk, building or other structure.
3. **MANNER OF DISTRIBUTION.** Bills shall not be distributed in such a manner that they may be blown about or scattered.
4. **SIZE OF BILLS.** Bills larger than nine by twelve inches in size shall not be handed to persons on the sidewalks or streets or public property or attached to automobiles parked on any streets, alleys or public property.

5.06 JUNK DEALERS. The following shall apply to the license for junk dealers:

1. **RECORD BOOK.** Every junk dealer shall maintain a permanent record book that shows a description of each item received, the name and address of the person from whom it was received, the quantity or weight of each item, the amount paid, and the time and date of the transaction.
2. **SEGREGATE DAY'S COLLECTION.** Every junk dealer shall segregate each day's collection for a period of forty-eight (48) hours. During this period no item shall be disposed of or altered in any manner.
3. **RECEIVE JUNK FROM MINOR.** A junk dealer shall not purchase or receive junk from a minor unless he or she first receives the written consent of the minor's parent or guardian. Such consent shall be attached to the record book as a part of the permanent record.
4. **INSPECTION.** Health officers and peace officers shall be permitted at all times to inspect the junk dealer's premises for the existence of materials or conditions dangerous to the public health.
5. **ENCLOSED WITH FENCE.** All junk yards shall be enclosed within a solid fence at least eight (8) feet in height, which hides the contents of the yard from public view. Materials within the yard shall not be stacked higher than the surrounding fence. Any gates in said fence shall be of solid material and equal height.

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5.07 SCAVENGERS. The following shall apply to the license for scavengers:

1. **APPLICATION.** An application for a scavenger's license shall contain a detailed list describing each of the places from which the scavenger collects or intends to collect refuse.
2. **COLLECTION RECORD.** The licensee shall keep this list up-to-date by reporting immediately to the city clerk any changes of places of collection. Refuse shall be collected only from the places reported as places of collection.
3. **REFUSE ON STREET.** Refuse shall not be carried upon any street, alley, sidewalk or property of this city in containers that permit leaking or spilling of the refuse.
4. **INVESTIGATION BY HEALTH OFFICER.** The health officer shall be permitted at all times to investigate the scavenger's activities for the existence of materials or conditions dangerous to the public health.

5.08 PAWNBROKERS. The following shall apply to the license for pawnbrokers:

1. **RECORD BOOK.** Every pawnbroker shall maintain a permanent record book that shows a description of each item received, the name and address of the person from whom it was received, the quantity or weight of each item, a statement of the nature of the transaction including the sum for which the item is security, the time and date of the transaction, and the disposition made of the item including the time and date of disposition.
2. **RECEIVE FROM MINOR.** A pawnbroker shall not purchase or receive any item from a minor unless he or she first receives the written consent of a parent or guardian of the minor. Such consent shall be attached to the record book as a part of the permanent record.
3. **NOTIFY POLICE.** Any pawnbroker shall notify the local police immediately upon receipt of an item that he or she believes or has reason to believe is stolen property. Such an item shall not be disposed of or altered without written permission from the local police.

5.09 SALES BY AUCTIONEERS. The following shall apply to the license for auctioneers:

1. **APPLICATION.** An application for a license for an auctioneer's sale shall contain a general description of the goods or property to be sold, including their approximate values, and the time and place at which the sale will be held.

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2. LOCATION FOR SALE. Any auctioneer shall not use any street, alley, sidewalk or other public place as a location for conducting a sale.
3. EXCEPTIONS. The provisions of this chapter concerning sales by auctioneers shall not apply to any sales made by a person required by law to sell real or personal property.

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CHAPTER 3: LICENSING

ARTICLE 6 - PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

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

1. "Peddler" shall mean any person carrying goods or merchandise from house-to-house or upon the public street.
2. "Solicitor" shall mean any person who solicits or attempts to solicit from house-to-house or upon the public street an order for goods, subscriptions or merchandise to be delivered at a future date.
3. "Transient merchant" shall mean any person, firm or corporation who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer shall not exempt any person, firm or corporation from being considered a transient merchant.

6.02 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in this city without first obtaining a license as herein provided shall be in violation of this ordinance.

6.03 EXEMPTIONS. The following groups or persons shall be exempt from the provisions:

1. News Boys
2. Members of local Boy Scout, Girl Scout, Campfire Girls, 4-H Clubs, Future Farmers of America and similar organizations.
3. Farmers who offer for sale products of their own raising.
4. Students representing the West Lyon Community School District Conducting projects sponsored by organizations recognized by the school.
5. Milk delivery men who only incidentally solicit additional business or make special sales.
6. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

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6.04 RELIGIOUS AND CHARITABLE ORGANIZATIONS EXEMPT. Authorized representatives of religious and charitable organizations desiring to solicit money or to distribute literature shall be exempt from the operation of Section 6.05 - 6.13 of this ordinance. All such organizations shall be required to submit in writing to the city clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor for his efforts and the amount thereof.

If the city clerk shall find that the organization is a bona fide charity or religious organization he or she shall issue, free of charge, a license containing the above information to the applicant.

6.05 APPLICATION. An application in writing shall be filed with the city clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address, business address, if any, physical description, recent photograph, right thumb print, and, unless a solicitor, be accompanied by a certificate that the applicant is in good health and free from contagious diseases, signed by a local physician. The application also shall set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three (3) places of such business, and the length of time sought to be covered by the license. A fee of \$2.00 shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

6.06 BOND REQUIRED. Before a license under this chapter shall be issued, each applicant shall post a bond of \$1,000.00 with the clerk. Such bond shall be conditioned to indemnify and pay the city for any penalties or costs occasioned by the enforcement of this chapter, and shall not be retired until after a lapse of one year from the expiration of each license.

6.07 FEES. Every licensee shall pay the following fee before a license shall be issued:

1. PEDDLERS OR TRANSIENT MERCHANTS:

\$100 per day, per person.

2. SOLICITORS:

- a. In addition to the investigating fee for each person actually soliciting (principal or agent), a fee for the principal solicitor of \$10.00 per year shall be charged.

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- 6.08 DISPLAY. Each solicitor or peddler shall at all times while doing business in this city keep in his possession the license provided for in this article, and shall, upon the request of prospective customers, exhibit the license as evidence that he or she has complied with all requirements of this chapter. Each transient merchant shall display publicly his license in his place of business.
- 6.09 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.
- 6.10 REBATES. On surrender of any license before the expiration of the full period for which it was issued, the licensee may apply for a rebate of the fee from the clerk. Determination of the amount of the rebate shall be made by deducting from the fee paid the amount payable when computed on a monthly, weekly and daily basis from the first day the license was issued. The balance, if any, shall be refunded.
- 6.11 REVOCAION. The city council, after notice and hearing, may revoke any license issued under this chapter where the licensee in the application for the license or in the course of conducting his business has made fraudulent or incorrect statements or has violated this chapter or has otherwise conducted his business in an unlawful manner, or the licensee has conducted his/her business in such a manner as to endanger the public welfare, safety, order or morals.
- 6.12 EXPIRATION. All licenses granted under this chapter shall expire at 6:00 p.m. of the last day for which the license is issued.
- 6.13 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the state law, section 82.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to which he or she sells a product or service and, comply with the other requirements of the law.
- 6.14 HOURS OF OPERATION. All peddlers, transient merchants and solicitor's licenses shall provide that said licenses shall be in force and effect only between the hours of eight (8:00) a.m. and eight (8:00) p.m.

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CHAPTER 4: ADULT-ORIENTED ESTABLISHMENT REGULATIONS

ARTICLE 7 – GENERAL PROVISIONS

7.01 PURPOSE. The City of Larchwood finds:

- a. Adult-oriented establishments require special supervision in order to protect and preserve the health, safety, and welfare of the patrons of such establishments as well as the citizens of Larchwood;
- b. The concern over sexually-transmitted diseases is a legitimate health concern of the city that demands reasonable regulation of adult-oriented establishments in order to protect the health and well-being of the community;
- c. Adult-oriented establishments, because of their very nature, have a detrimental effect on both existing establishments around them and surrounding residential areas adjacent to them;
- d. Adult-oriented establishments, due to their very nature, have serious objectionable operational characteristics, thereby contributing to blight and downgrading the quality of life in the adjacent area;
- e. The City of Larchwood wants to prevent these adverse effects and thereby protect the health, safety, and welfare of its residents; protect residents from increased crime; preserve the quality of life; preserve the property values and character of the surrounding neighborhoods; and deter the spread of blight;
- f. It is not the intent of this ordinance to suppress any speech activities protected by the First Amendment, but to enact content neutral regulations that addresses the secondary effects of adult-oriented establishments as well as the health problems associated with such establishments; and

7.02 DEFINITIONS RELATED TO ADULT-ORIENTED ESTABLISHMENTS.

- a. *ADULT BOOKSTORE:* An establishment that has a facility or facilities, including but not limited to, booths, cubicles, rooms or stalls for the presentation of "adult entertainment," including adult-oriented films, movies, or live performances for observation by patrons therein; or an establishment having a substantial or significant portion of its stock-in-trade for sale, rent, trade, lease, inspection, or viewing of books, films, video cassettes, magazines, or other periodicals, which are distinguished or characterized by their emphasis on matters depicting, describing, or relating to specified anatomical areas or specified sexual activities as defined below.

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- b. *ADULT ENTERTAINMENT*: Any exhibition of any motion picture, live performance, display, or dance of any type, which has as its dominant theme or is distinguished or characterized by an emphasis on any actual or simulated specified sexual activities or specified anatomical areas as defined below.
 - c. *ADULT MOTION PICTURE THEATER*: An enclosed building used for presenting material having as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined below for observation by patrons of the building.
 - d. *ADULT-ORIENTED ESTABLISHMENT*: Any premises including, without limitation, "adult bookstores," or "adult motion picture theaters." It further means any premises to which public patrons or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments, or stalls separate from the common area of the premises for the purposes of viewing adult-oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a patron, or a member, whether or such adult entertainment is held, conducted, operated, or maintained for a profit, direct or indirect. "Adult-Oriented Establishment" further includes, without limitation, any premises physically arranged and used as such whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio, or any other term of like import.
 - e. *OPERATORS*: Any person, partnership, or corporation operating, conducting, maintaining or owning any adult-oriented establishment.
 - f. *SPECIFIED ANATOMICAL AREAS*: Less than completely and opaquely covered human genitals, pubic region, buttocks, female breasts below the point immediately above the top of the areola; or, human male genitals in a discernible turgid state, even if opaquely covered.
 - g. *SPECIFIED SEXUAL ACTIVITIES*: Simulated or actual (a) showing of human genitals in a state of sexual stimulation or arousal; (b) acts of masturbation, sexual intercourse, sodomy, necrophilia, sado masochistic abuse, fellatio, or cunnilingus; or (c) fondling or erotic touching of human genitals, pubic region, buttocks, or female breasts.
- 7.03 LOCATIONAL RESTRICTIONS. An adult-oriented establishment shall be permitted within the City of Larchwood only in the Industrial (I) District upon receipt of a site plan and special exception use permit in accordance with the procedures set forth in Article XVI of the City's zoning ordinance and only if it meets all of the locational requirements set forth below.

Distances provided hereafter shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the property parcel upon which the proposed adult entertainment business is to be located, to the nearest point of the parcel of property or zoning district boundary line from which the proposed adult entertainment business is to be separated.

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- a. Adult-oriented establishments shall be prohibited in or within one thousand five hundred (1,500) feet of the borders of a residential district.
- b. Adult-oriented establishments shall be prohibited within one thousand five hundred (1,500) feet of any church, synagogue, mosque, temple, or other place of religious worship.
- c. Adult-oriented establishments shall be prohibited within one thousand five hundred (1,500) feet of any public or private school offering general education for students between the years of Kindergarten and Twelfth grade.
- d. Adult-oriented establishments shall be prohibited within one thousand five hundred (1,500) feet of any day care home or daycare business.
- e. Adult-oriented establishments shall be prohibited within one thousand five hundred feet (1,500) of any public park or playground. For purposed of this section, bike paths, trails, waterways and boat launches shall note be deemed a public park.
- f. Adult-oriented establishments shall be prohibited within one thousand five hundred feet (1,500) from any other adult entertainment business.

Adult-oriented establishments shall be prohibited within one thousand five hundred feet (1,500) of any existing establishment selling alcoholic beverages for consumption on premises.

7.04 Development Design Standards.

- a. Exterior. It shall be unlawful for an owner of an adult-oriented establishment:
 - i. to allow the merchandise or activities of the establishment to be visible from a point outside the establishment
 - ii. to allow the exterior portion of the adult-oriented establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representation of any manner depicting specified anatomical areas or specified sexual activities.
 - iii. to allow exterior portions of the establishment to be painted in a color other than a single color.
- b. Signage. The operator shall comply with Article XIV of the Zoning Ordinance. Additionally, the display surfaces of the sign shall not contain any flashing lights or photographs, silhouettes, drawings, or pictorial representations of any manner, except for the name of the enterprise.

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- 7.05 Responsibilities of the Operator. Every act or omission by an employee constituting a violation of the provisions of this ordinance shall be deemed the act or omission of the operator if such act or omission occurs either with the authorization, knowledge, or approval of the operator, or as a result of the operator's negligent failure to supervise the employee's conduct, and the operator shall be punishable for such act or omission in the same manner as if the operator committed the act or caused the omission.
- 7.06 Minors. It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult-oriented establishment at any time that the establishment is open for business. The operator must ensure that an attendant is stationed at each public entrance at all times during regular business hours. The attendant shall prohibit any person under the age of eighteen (18) from entering the establishment. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished either a valid operator's drivers license or a valid personal identification certificate issued by a State reflecting that the person is eighteen (18) years of age or older.
- 7.07 Hours of Operation. An adult-oriented establishment may remain open for business no longer than the hours from between 10:00 a.m. to 12 midnight, seven days a week.

(EDITOR'S NOTE: Ordinance 53 Established Adult-Oriented Establishment Regulations, Chapter 4, Article 7, which was approved by Council on June 21, 2006)

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TITLE VI - BUILDING REGULATIONS

TITLE VI

CHAPTER 1: BUILDING REGULATIONS

ARTICLE 1 - DANGEROUS BUILDINGS

- 1.01 ENFORCEMENT OFFICER. The mayor shall be responsible for the enforcement of this chapter.
- 1.02 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 as specified in this chapter or any other ordinance, are, for the purpose of this chapter, unsafe buildings. All such unsafe buildings are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedure specified in this chapter.
(Code of Iowa, Sec. 657.1 and 364.12 (3a))
- 1.03 UNSAFE BUILDING. "Unsafe building" shall mean any structure or mobile home meeting any or all the following criteria:
1. Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.
 2. Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of 20 pounds per square foot.
 3. Whenever any portion thereof has racked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
 4. Whenever the building or structure, or any portion thereof, because of (a) dilapidation, deterioration, or decay; (b) faulty construction; (c) the removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (d) the deterioration, decay or inadequacy of its foundation; or (e) any other cause, is likely to partially or completely collapse.
 5. Whenever, for any reason, the building or a structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

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6. Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the Center of gravity does not fall inside the middle one-third of the base.
 7. Whenever the building or structure, exclusive of the foundation, shows 33 per cent or more damage or deterioration of its supporting member or members, or 50 per cent, damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
 8. Whenever the building or structure has been so damaged by fire, wind, earthquake or flood, or has become so dilapidated or deteriorated as to become (a) an attractive nuisance to children; (b) a harbor for vagrants, criminals or immoral persons; or as to (c) enable persons to resort thereto for the purpose of committing unlawful or immoral acts.
 9. Whenever a building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by any health officer to be unsanitary, unfit for human habitation or in such condition that is likely to cause sickness or disease.
 10. Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the Fire Marshal or Fire Chief to be a fire hazard.
 11. Whenever any building or structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence.
 12. Whenever any portion of a building or structure remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned for a period in excess of six months: so as to constitute such building or portion thereof an unattractive nuisance or hazard to the public.
- 1.04 NOTICE TO OWNER. The mayor 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 mayor 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 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 90 days from date of notice, unless otherwise stipulated by the mayor. 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

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improvements are completed, inspected, and approved by the mayor.

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

1. Notice Served. Such notice shall be served in the manner provided for service of original notice of the Iowa rules of civil procedure upon the owner of record, if he or she shall be found within the city limits. If he is not found within the city limits such service may be made upon said 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 mayor shall begin as of the date he or she receives such notice.
 2. Hearing. Such notice shall also advise the owner that he or she may request a hearing before the council on the notice by filing a written request for hearing within the time provided in the notice.
- 1.05 CONDUCT OF HEARING. If requested, the council shall conduct a hearing in accordance with the following:
1. Nature. 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.
- 1.06 POSTING OF SIGNS. The mayor shall cause to be posted at each entrance to such building a notice to read: "DO NOT ENTER. UNSAFE TO OCCUPY. City of Larchwood." 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 mayor and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.
- 1.07 RIGHT TO DEMOLISH. In case the owner shall fail, neglect, or refuse to comply with the notice to repair, rehabilitate, or to demolish and remove said 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 mayor 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))

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- 1.08 COSTS. Costs incurred under Section 1.3-1.06 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 Auditor for collection in the manner provided for other taxes.

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

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CHAPTER 1: BUILDING REGULATIONS

ARTICLE 2 - BUILDING PERMITS

- 2.01 PURPOSE. The purpose of this chapter is to provide the council notice of the type of building, the kind of construction, the location of any building to be erected or added within the corporation, the location of any building on any specific lot within the corporation and to provide reasonable rules for the erection, reconstruction, altering and repair of all kinds of buildings.
- 2.02 PERMIT REQUIRED. No buildings or other structures shall be hereafter erected, reconstructed, altered or added to without first securing from the council a permit therefore.
- 2.03 BLUEPRINT REQUIRED. Blueprints and Specifications of any proposed building to be done as listed herein shall be filed with the application for the permit.
- 2.04 LOCATION OF BUILDING. A Complete showing and description the real estate involved and the location of the building on the real estate shall be filed with the application for the permit. Inspection of lot pins will be conducted by the Public Works Director. If lot pin location is not known a Certified copy of the lot survey shall be given to the Zoning Administrator and the Public Works Director will inspect before Building Permit will be approved.
- (Editor's Note: Section 2.04 was amended by Ordinance 70, which was approved by Council on October 6, 2008)
- 2.05 AUTHORITY OF COUNCIL. The council shall have full authority to accept or reject any plans and specifications submitted.
- 2.06 ACTION TO ABATE. Any building or structure erected, constructed, altered or repaired in violation of the provisions of this chapter shall be deemed unlawful and a nuisance and it shall be abated by action in the District Court. Such action for abatement shall be prosecuted in the name of the city.
- 2.07 PERMITS ISSUED. Permits shall be issued by the city clerk in triplicate, one copy for the applicant, one copy for the county assessor and one copy to be retained for city records. Building permit fees shall be set by Council resolution and may be changed by a Council resolution.
- 2.08 PERMIT VOID. In the event that construction covered by a permit is not initiated and underway within one year from the date of issuance of a permit, such permit shall be deemed void and of no effect.

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CHAPTER 2: FIRE SAFETY

ARTICLE 3 - GENERAL PROVISIONS

- 3.01 FIRE LIMITS ESTABLISHED. The fire limits (Fire Zone No. 1) are established to include the following area:

The east half (1/2) of Blocks 28, 33, and 1 fronting on Broadway and the west half (1/2) of Blocks 29, 34, and 37, fronting on Broadway, according to the plat of the Town of Larchwood, in Sykes Addition, Iowa.

- 3.02 PLANS SUBMITTED. It shall be unlawful to build, enlarge or alter any wall, structure, building or part thereof, within the fire limits, until a plan of the proposed work, together with a statement of materials to be used shall have been submitted to the building inspector or mayor etc., who if the proposal is in accordance with the provisions of the building code, shall issue a permit for the proposed work.

- 3.03 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 limits, unless constructed in strict compliance with the provisions of the city building code for Fire Zone No. 1.

- 3.04 SPECIAL PERMIT. The council may, by four-fifths vote, issue a special permit to improve any property within the fire limits contrary to the provisions of this chapter, on condition that such improvement shall not increase the rates for fire insurance or the fire hazard, according to the rules of the Iowa Insurance Service Bureau.

- 3.05 MOVING BUILDINGS. The removal of any building not constructed in accordance with the provisions of this chapter, from without to within the fire limits or from any part of the fire limits to any other place therein is prohibited.

- 3.06 RECONSTRUCTION PROHIBITED. Any building within the fire limits, not constructed in accordance with the provisions of this chapter, which may hereafter be damaged by fire, decay, or otherwise, to the extent of fifty percent (50%) of its value, shall not be repaired or rebuilt but shall be torn down or removed. When the damages are less than fifty percent (50%) of its value, the building shall not be repaired so as to be higher in value than it was before the damages were sustained, except upon approval by four-fifths of the members of the council, of the plans and specifications of such repairs and rebuilding.

- 3.07 REMOVAL OF BUILDINGS. Any person who erects or moves any building in the fire limits, contrary to the provisions of this chapter, shall be given ten (10) days written notice by the mayor to remove or tear down the same, and if such removal or taking down is not completed within ten (10) days from the time of the service of such notice, the mayor shall cause the same to be removed or taken down. The

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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 auditor, as a special tax against the property and collected the same as other taxes.

- 3.08 BOARD OF APPRAISEMENT. In case of a question as to the amount or extent of damage by fire or otherwise to any building, the damage shall be determined by a board of appraisement of three disinterested parties, owners of real estate within the fire limits, one of whom shall be appointed by the owner or agent of the building, the second by the mayor, and the persons thus chosen shall select a third person. If the members of the board appointed by the owner of the property and by the mayor are unable to agree upon the third member within ten (10) days of their appointment, the council shall appoint such third member. The members of the board shall fix the amount or extent of the damage. Their decision shall be in writing, shall be final and conclusive, and shall be filed with the clerk. No building within the fire limits about which there is a question shall be repaired or rebuilt until such finding has been filed with the clerk.

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CHAPTER 3: TREES

ARTICLE 4 - GENERAL PROVISIONS

4.01 DEFINITIONS. For use in this chapter, the following term is defined:

1. "Parking" means that part of the street, avenue or highway in the city not covered by sidewalk and lying between the lot line and the curb line, or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.
2. "Superintendent": shall mean the superintendent of streets or such other person as may be designated by the council.

4.02 ARBORICULTURAL SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. **SPACING**. All trees hereafter planted shall be planted inside the property lines and not between the sidewalk and the curb.
2. **PLANTING**. The following regulations shall be followed in the planting of trees within the city.
 - a. **Size**. All trees planted on the streets shall be of sufficient size to warrant satisfactory results and stand the abuse common to street trees.
 - b. **Grade**. Unless otherwise allowed for substantial reasons, all standard sized trees shall have comparatively straight trunks, well-developed leaders, and tip and root characteristics of the species or variety showing evidence of proper nursery pruning. All trees must be free of insect, disease, mechanical injuries and other objectionable features at the time of planting. To compensate for any serious loss of roots, the top of the tree should be reduced by thinning or cutting back as determined by the growth characteristics of the tree species. The leader shall not be cut off in such trimming.
 - c. **Planting**. Trees shall not be planted on the parking if it is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface. Trees shall not be planted closer than twenty (20) feet to street intersections (property lines extended) and ten (10) feet to driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.

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- d. Method of support. Trees may be guyed or supported in an upright position according to accepted arboricultural practices. The guys or supports shall be fastened in such a way that they will not girdle or cause serious injury to the trees or endanger public safety.
3. TRIMMING OR PRUNING. Trees shall be trimmed or pruned according to the following:
- a. All cuts are to be made sufficiently close to the parent stem so that healing can readily start under normal conditions.
 - b. All dead and diseased wood shall be removed.
 - c. All limbs one inch in diameter or more must be precut to prevent splitting. All branches in danger of injuring the tree in falling shall be lowered by ropes.
 - d. A crossed or rubbing branch shall be removed where practicable, but removal shall not leave large holes in the general outline of the tree. Crossed or rubbing branches may be cabled apart.
 - e. All cuts, old or new, one inch in diameter or more, shall be painted with an approved tree wound dressing. On old wounds, care shall be taken to paint exposed wood only.
 - f. Where there is a known danger of transmitting disease by tools, said tools shall be disinfected with alcohol before use on another tree.
 - g. Improperly healed scars, where callous growth is not established, are to be traced and painted, unless the city designates other treatment.
 - h. No topping or dehorning of trees shall be permitted except by special written permission of the city. Trees becoming stag-headed may have the dead portions removed back to sound green wood, with a proper forty-five (45) degree cut only.
 - i. Elm wood trimmed, pruned or removed shall not be used for any purpose, but shall be disposed of immediately by burning or burying.
- 4.03 REMOVAL OF TREES. The superintendent shall have removed, on the order of the council, any tree on the streets of the city which interferes with the making of improvements or with travel thereon. The superintendent shall additionally remove any trees on the street, not on private property, which have become diseased, or which constitute a danger to the public or which may otherwise be declared a nuisance.

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

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- 4.04 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks.
(Code of Iowa, Sec. 364.12(2c))
- 4.05 TRIMMING TREES TO BE SUPERVISED. It shall be 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.
- 4.06 ASSESSMENT. If the abutting property owner fails to trim the trees as required in this chapter, the City may serve notice on the abutting property owner requiring him or her to do so within five (5) days. If the abutting property owner fails to trim the trees 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(2d&e))
- 4.07 TREE BRANCHES NEAR UTILITY LINES. Trees shall be trimmed so that no branch hangs over, between, or parallel to within a distance of ten (10) feet, any utility, wire, cable, line or other suspended utility, or appurtenance. For the purpose of this chapter, utility shall include, but not be limited to, power, telephone, telegraph, cable television, or other public service or facility requiring or utilizing suspended appurtenances for the delivery of the service.

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CHAPTER 3: TREES

ARTICLE 5 - DISEASED AND DEAD TREE CONTROL

- 5.01 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, or is a danger to other trees. 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, then 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 to 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.
- 5.02 DUTY TO REMOVE. No person, firm or corporation shall permit any diseased tree, dead wood, or fallen branches or portions on the premises owned, controlled or occupied by the person within the City. Branches or portions of trees fallen from a tree located on private property which fall on public property shall be removed by the owner of the private property on which the source tree is located and at the owner's cost.
- 5.03 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 5.01 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.
- 5.04 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

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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.

- 5.05 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.

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CHAPTER 4: WEEDS

ARTICLE 6 - WEED CONTROL

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

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

1. "Curb," "curb line" or "curbing" means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.
2. "Cut," or "mow" means to mechanically maintain the growth of grass, weeds or brush at a uniform height.
3. "Owner" means a person owning private property in the City and any person occupying private property in the City.
4. "Parking" means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.

6.03 GROUND COVER REQUIRED. Property in a residential area shall be seeded, sodded or otherwise planted with a ground cover not more than thirty (30) days after construction is completed, unless impractical, but not later than the beginning of the next growing season.

6.04 CUTTING SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. Every owner shall cut, mow and maintain all grass, weeds and brush upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, to a uniform height as defined in Section 6.05 of this Chapter.
2. Every owner shall cut, mow and maintain grass, weeds and brush adjacent to the curb line, including the parking area abutting the owner's property, in such a manner so as to be in conformity with and at an even height with all other grass, weeds or brush growing on the remainder of the owner's property.

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- 6.05 UNIFORM HEIGHT SPECIFICATIONS. Grass, weeds or brush shall be cut, mowed and maintained so as not to exceed the following height specifications:
1. Developed Residential Areas – not to exceed six inches (6").
 2. Undeveloped Residential Areas – not to exceed twelve inches (12").
 3. Business and Industrial Areas – not to exceed six inches (6").
 4. Agriculture Areas – not to exceed eighteen inches (18").

Grass, weeds and brush which are allowed to grow in excess of the above specified limitations are deemed to be violations of this chapter.

6.06 NOXIOUS WEEDS.

1. Every owner shall cut and control noxious weeds upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, by cutting noxious weeds to ground level or use of herbicides to eliminate or eradicate such weeds.
2. Noxious weeds include any weed growth or plant designated as noxious by the State Department of Natural Resources rules and regulations or by the Code of Iowa.

- 6.07 NOTICE TO ABATE. Upon discovery of any violations of this chapter, the City may within five (5) days initiate abatement procedures as outlined in Title 3, Chapter 3 of this Code of Ordinances.

- 6.08 ALLOCATION OF FUNDS. All costs and expenses to the City under the provisions of this Chapter shall be paid from the General Fund of the City. All payments received under the provisions of this Chapter shall be placed in the General Fund of the City.

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CHAPTER 5: ABANDONED AND JUNKED VEHICLES AND MACHINERY

ARTICLE 7 - ABANDONED VEHICLES

7.01 DEFINITIONS. For use in this article the following terms are defined:

1. "Abandoned Vehicle" shall mean any of the following:
(Code of Iowa, Sec. 321.89(1b))
 - 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 motor 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 thirty (30) days. However, a police authority may declare the vehicle abandoned within the ten-day period 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 any city or public agency organized for the disposal of solid waste, or any person whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.
(Code of Iowa, Sec. 321.89(1b))
3. "Police authority" means the Iowa highway safety patrol or any law enforcement agency of a county or city.
(Code of Iowa, Sec. 321.89(1c))

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7.02 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 an abandoned on private property. A police authority taking into custody an abandoned vehicle which has been determined to create a traffic hazard shall report the reasons constituting the hazard in writing to the appropriate authority having duties of control of the highway. 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 approved 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))

7.03 NOTICE BY MAIL. The police authority or private entity which 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 their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and serial number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where it 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 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 the 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 personal 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 (10) day reclaim 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

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equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten (10) day reclaiming period.

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

- 7.04 NOTIFICATION IN NEWSPAPER. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of 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 7.03. 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 mail notice in section 7.03.

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

- 7.05 EXTENSION OF TIME. The owner, lienholders or claimants may, by written request delivered to the police authority or private entity prior to the expiration of the ten (10) day reclaiming period, obtaining an additional five (5) days within which the motor vehicle or personal property may be reclaimed

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

- 7.06 FEES FOR IMPOUNDMENT. The owner or lien holder shall pay five dollars (\$5.00) if claimed within five (5) 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 upon payment of the 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 resolution of the council.

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

- 7.07 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])

- 7.08 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 or a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without title and without notification procedures, if such motor vehicle lacks an engine or two (2) or more wheels or other structural part which renders a vehicle totally inoperable. The police authority shall give the applicant a certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90(2e))

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7.09 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of the 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 lien holder 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 the Department of Transportation.

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

7.10 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 a motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90(3a))

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CHAPTER 5: ABANDONED AND JUNKED VEHICLES AND MACHINERY

ARTICLE 8 - JUNKED VEHICLES AND MACHINERY

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

1. "Enclosed Structure". Means any structure or portion thereof built for the enclosure of property, containing a roof and having exterior walls of the structure or portion thereof constructed in such a manner as to obscure from any street or adjacent property any contents thereof and being of a permanent nature.
2. "Junk" means all old or scrap copper, brass, lead or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware; storing or permitting the open storage of used or unused or discarded building materials such as windows, doors, siding, shingles or other building materials for a period of thirty (30) or more days; noncurrent registered boat, pontoon, canoe, jet ski, or similar watercraft or with no current registration stickers attached to the same. Neatly stacked firewood located on a side yard or near a rear yard is not considered junk.
3. "Junk vehicle" means any vehicle, trailer, or semitrailer or piece of machinery stored within the corporate limits of Larchwood, Iowa, unlicensed for the current year as required by any law, or legally placed in storage with the County Treasurer, or which because of any one of the following characteristics, constitutes a threat to the public health, welfare and/or safety:
 - A. Is rendered inoperable (not road-ready or in a safe condition for use on any roadways) for a period of thirty (30) days or more because of a missing or broken or cracked windshield or window glass or turn signal or mirror, exhaust system, or because of a missing or broken fender, door, bumper, hood, steering wheel, driver's seat, trunk, fuel tank, one or more wheels, one of more flat tires, engine, drive shaft, differential, battery, generator or alternator or other component part of an electrical system, or any component or structural part, which render the vehicle incapable of both forward and reverse movement in the manner in which it was designed;
 - B. Habitat for Nuisance Animals or Insects. Any vehicle which has become a habitat for rats, mice, or snakes, or any other vermin or insects.

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- C. **Flammable Fuel.** Any vehicle, trailer or semitrailer which contains stored gasoline or other fuel, paper, cardboard, wood or other combustible materials, garbage, refuse, solid waste, debris, etc.
 - D. **Defective or Obsolete Condition.** Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.
 - E. **Uninsured.** Any vehicle not insured and not having proof of financial liability coverage card as required under Section 321.20(B) (or any subsequently adopted replacement provision) of the Code of Iowa.
 - F. **Parked Vehicles.** Any vehicle, trailer, or machinery parked on any private or public property for an extended period of time and weeds or grass are allowed to partially cover it or grow up around it.
- 4. "Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and includes without limitation a motor vehicle, automobile, truck, motorcycle, tractor, buggy, wagon, farm machinery, boat trailer, camping trailer, utility trailer, semi-trailer, motorhome (RV), or any combination thereof.
 - 5. "Semitrailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.
 - 6. "Store" means an inoperable vehicle, trailer, semitrailer, or junk left upon private property for thirty (30) days or more.
 - 7. "Trailer" means every vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicle.
 - 8. "Unlicensed vehicle" means any vehicle which is required to be licensed if it is operated on a public street or highway, but which is not displaying a valid and current license plates and registration sticker to the rear plate on the vehicle as required by law for use on public roads.

Mere licensing or placing vehicle in storage with the County Treasurer of such vehicle shall not constitute a defense to the finding that the vehicle is a junk vehicle.

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

8.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle located upon private property, unless excepted by Section 8.04, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk or junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation.

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

8.04 EXCEPTIONS.

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

1. In a garage or other similar enclosed structure where junk or junk vehicles are not visible to the public or from adjacent properties; or
2. Held for storage or sale upon property, not in a zoned residential district, owned or controlled by a licensed motor vehicle dealer, body shop, repair shop, or vehicle towing company regularly engaged in commercial sales, repair, transportation or storage of vehicles. Grass, weeds, vegetation shall not be allowed to partially cover a vehicle. Junk or junk vehicles are to be stored and maintained in an orderly manner so as to not cause a nuisance in; or
3. In an appropriate storage space or depository maintained in a lawful place and lawful manner by the City for vehicles impounded by the City.

8.05 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle located upon private property in violation of Section 8.03, the City may within five (5) days initiate abatement procedures as outlined in Title III of this Code of Ordinances.

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

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CHAPTER 6: FIRE PREVENTION CODE AND FIRE FIGHTING

ARTICLE 9 - GENERAL PROVISIONS

- 9.01 PURPOSE. This chapter is adopted to provide the city with the rules, administration, and enforcement powers to protect persons and property against the dangers of fire or explosion by measures to enhance prevention of such occurrences and to maintain buildings in a safe condition by the proper and safe storage of materials, the preservation of adequate exits clear of obstruction, use of safe practices in furnishing buildings for the public safety and welfare of the citizens of the city.
- 9.02 ENFORCEMENT; FIRE MARSHAL. The chief of the fire department shall be the city fire marshal, who has the power and duty to conduct inspections and issue orders to enforce fire safety and the regulations adopted by this chapter, either by the chief or through a designated deputy, named by the chief from among the membership of the volunteer fire department, who is trained in firemanship and knowledgeable of fire prevention measures. The fire chief has concurrent jurisdiction to enforce the state fire marshal's rules adopted in this chapter to enhance the public effort to prevent fires and explosions.
- 9.03 EXIT WAYS MAINTAINED. The provisions of state law on exits shall be enforced by the city fire marshal, and it shall be the duty of the owner, agent or occupier of property, severally and collectively, to maintain the exits required by state law or by any city building code free from obstruction caused by storage of materials, placement of furniture, or by improper barring of exit doors. Whenever a condition which obstructs the required exits or unsafely prevents emergency use of exit doors, hallways, or passages to such doors, whether in places of public assembly, hospitals or other health care facilities, retirement homes, lodges, clubs, schools, retail stores, warehouses, hotels, motels, or multi-family dwellings with three or more dwelling units, the fire marshal shall order the condition remedied. The owner or occupant of the premises, upon receiving such an order in writing, shall make such corrections as have been so ordered by the authorized official within a reasonable time as set in the written order and the degree of imminent danger. The regulations of the state fire marshal, IAC 661, Chapter 5, which apply to exits and fire escapes, are adopted by reference.
- 9.04 FIRE EXTINGUISHERS. The provisions of state law requiring fire extinguishers in places of public assembly, hospitals or other health care facilities, retirement homes, lodges, clubs, schools, hotels, motels, or multi-family dwellings with three or more dwelling units are adopted by reference and the city fire marshal shall enforce their requirements as they appear in IAC 661, Chapter 5. Portable fire extinguishers shall also be provided in retail stores, warehouses, and industrial establishments, with not less than one (1) such extinguisher on each floor of a

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building and located so that no person will have to travel more than seventy-five (75) feet from any point to reach the nearest extinguisher. Additional extinguishers may be installed in a building and may be required by the city fire marshal in areas that constitute a special hazard. The type and size of portable fire extinguishers shall be determined by the city fire marshal for the named commercial and industrial buildings in accordance with best practice as advised by the state fire marshal and the insurance industry.

9.05 STORAGE OF HAZARDOUS SUBSTANCES.

1. **EXPLOSIVES.** No person shall store explosives, as defined by state law and rules promulgated thereunder, classified as Class A, Class B, or Class C explosives by the Federal Department of Transportation, within the fire limits without a permit from the city fire marshal except for quantities of twenty-five (25) pounds or less of smokeless powder or five (5) pounds or less of black powder for use in small arms, but a permit shall not be required for retail stocks of small arms ammunition for small bore rifles or shotguns customarily used in wild game hunting, or for target practice or skeet shooting. The city fire marshal shall have the power to limit the quantities of other explosives for which a permit is requested, but shall not grant permits for liquid nitroglycerin, dynamite with over 60% of liquid explosive ingredient, unstable types of dynamite, nitrocellulose, fulminate of mercury, explosive compositions that ignite spontaneously or markedly decompose to become more hazardous when subjected to 48 consecutive hours at a temperature of 167 degrees F.
2. **FLAMMABLE AND COMBUSTIBLE LIQUIDS.** The regulations for the storage and handling of flammable and combustible liquids as set forth in IAC 661, sections 5.300 et seq. are adopted by reference and shall be enforced by the city fire marshal. No flammable or combustible liquid shall be dispensed from underground tanks in residential areas except in public garages or motor fuel (service) stations which exist as legally nonconforming uses under the zoning chapter.
3. **LIQUEFIED PETROLEUM GASES.** The regulations for the storage and handling of liquefied petroleum gases as set forth in IAC 661, section 5.250 and 5.251 are adopted by reference and shall be enforced by the city fire marshal, and no installation exceeding 900 pound capacity shall be made without a city permit, conditioned on compliance with said state rules, issued by the city fire marshal.

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9.06 OPEN BURNING. The following shall apply to open burning:

1. DEFINITIONS.

- a. Back yard Burning. The burning of rubbish originating on the premises by individuals domiciled on the premises.
- b. Open Burning. Any burning of combustible materials where in the products of combustion are emitted into the open air without passing through a chimney or stack.
- c. Refuse. Garbage, rubbish, and all other putrescible and nonputrescible wastes, except sewage and water-carried trade wastes.
- d. Rubbish. All waste materials of nonputrescible nature.
- e. Trade Waste. All solid or liquid material or rubbish resulting from building operations, construction, or the conduct of any business, industry or trade, including but not limited to, chemicals, cinders, grease, paint, plastic products, and other forms of liquid and solid waste materials.

2. REGULATIONS.

- a. No person shall allow, cause, or permit open burning of refuse, including trade wastes, nor shall he or she conduct a salvage operation by open burning, except where a variance has been granted by the air pollution control authority of the State of Iowa.
- b. No person shall burn garbage except in approved incinerators so maintained and operated as to prevent the emission of objectionable odors or particulate matter, as provided hereafter. Equipment or facilities for enclosed burning of refuse shall have a stack adequate to maintain a draft sufficient for efficient combustion, and the stack shall have a screen sufficiently fine to prevent ejection of particles of burning material. Such installations shall not be installed until approved by the city fire marshal. Such equipment and facilities shall be maintained and operated so that no objectionable smoke or odor shall result, in accordance with state law and rules on particulates and smoke density.
- c. Back yard burning, not including garbage, at dwellings of four (4) family units or less is permitted and, unless otherwise provided by ordinance or regulation, fires for the open burning of plant material grown on the premises or deposited thereon by the elements shall be permitted.

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- d. No person shall kindle or maintain any premise fire or authorize any such fire to be kindled or maintained on any private land unless (1) the location is not less than 50 feet from any structure and adequate provision is made to prevent fire from spreading to within 50 feet of any structure, or (2) the fire is contained in an approved waste burner located safely not less than 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.
 - e. The city fire marshal is permitted to prohibit any or all bonfires and outdoor rubbish fires when atmospheric conditions or local circumstances make such fires hazardous.
- 9.07 MODIFICATIONS. The chief of the fire department shall have power to modify any of the provisions of this fire prevention chapter upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the chief of the fire department thereon shall be entered upon the records of the department. One signed copy of the decision of the chief of the fire department shall be furnished the applicant, and one signed copy shall be filed in the office of the city clerk.
- 9.08 APPEALS. Whenever the chief of the fire department shall disapprove an application or refuse to grant a license or permit applied for, or when it is claimed that the provisions of this chapter do not apply or that the true intent and meaning hereof have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the chief of the fire department to the city council within 30 days from the date of such decision.
- 9.09 PENALTIES. Any person who violates any of the provisions of this chapter or fails to comply therewith, or who violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who fails to comply with such an order as affirmed or modified by the council or by a court of competent jurisdiction, within the time fixed herein, shall severally for each and every violation and noncompliance, respectively, be guilty of a misdemeanor. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten days

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that prohibited conditions are maintained shall constitute a separate offense. The application of this penalty shall not be held to prevent the enforced removal of prohibited conditions in the same manner as provided for in the chapter on nuisances.

- 9.10 INTERFERENCE WITH FIRE FIGHTING. It shall be unlawful to hinder or interfere with any officer or fireman in the performance of his duty at, or going to, or returning from a fire, or while attending to his duties as a member of the fire department.
- 9.11 DAMAGING FIRE DEPARTMENT PROPERTY. It shall be unlawful to cut, deface, destroy or injure any wires, poles, signal boxes, or any other property or fixtures belonging to or connected with the fire department or the fire alarm system.
- 9.12 FALSE ALARMS. No person, knowing the information is false, shall give or cause to be reported by any means a false report of fire.
- 9.13 DRIVING OVER FIRE HOSE. It shall be unlawful to drive or run any automobile, wagon, truck, locomotive, train of cars, or other vehicle across, along or upon any fire hose without the consent of any fire department official.
- 9.14 ASSISTING FIREMEN. It shall be unlawful for any person to refuse or neglect to assist the firemen in their duties at any fire when called upon to do so by the chief of the fire department or the officer acting in his place.
- 9.15 PRIVATE USE OF FIRE EQUIPMENT. It shall be unlawful for any person having charge of any of the fire apparatus belonging to the city to allow or permit the same to be used for private benefit.

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CHAPTER 7: REGULATIONS PERTAINING TO THE MOVING OF BUILDINGS

ARTICLE 10 - MOVING BUILDINGS

10.01 TITLE. This chapter may be known and cited as Moving Buildings.

10.02 PURPOSE. The purpose of this chapter is to provide for municipal regulation of moving buildings in furtherance of the public health, safety, morals, and welfare.

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

1. "PERSON": Any individual, firm, corporation, trust or any other organized group.
2. "MOBILE HOME": Defined as in section 1 35D. 1 of the Code of Iowa as amended.
3. "STREET": All public streets, roads, highways, alleys or other public places.
4. "STRUCTURE": Any house, garage, building or shelter which, when transported on the streets of the City, which exceeds ten (10) feet in width or thirteen feet six inches (13'6") in height. The term "structure" shall also include anything which when moved on the streets of the City would cause an unreasonable hazard to the safety of any persons or property.

10.04 PERMIT REQUIRED. No persons shall move any structure on or over the streets of the City without a permit issued by the City Zoning Officer.

10.05 APPLICATIONS. Any person desiring such a permit shall file with the Zoning Officer an application in writing on forms furnished by the City. The application shall include the following:

1. The character, size and weight of the structure to be moved.
2. The purpose for which said structure is to be used.
3. The locations from which and to which the structure is to be moved.
4. The streets over which the structure is intended to be moved.

10.06 APPLICATION APPROVAL: BOARD OF ADJUSTMENT. No permit to move a structure to a site within the corporate limits of the City shall be issued until it has been approved by the Board of Adjustment. In acting upon such a request for moving permit, the Board of Adjustment shall consider the following:

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1. Conformance of the proposed structure with the applicable regulations and standards established under this Code.
2. Compatibility of the structure with existing or permitted uses within three hundred feet (300') of the proposed site, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development and access and circulation features.
3. Potentially unfavorable effects or impacts on other existing or permitted uses within three hundred feet (300') of the proposed site.
4. Modifications or improvements to the structure which would result in increased compatibility, or would mitigate potentially unfavorable impact or which are necessary to conform to applicable regulations and standards to protect the public health, safety and welfare.
5. Potential danger to citizens of the community, particularly owners and users of abutting property.

10.07 TERMS AND CONDITIONS. The granting of a moving permit may be limited by conditions reasonable and proper for the protection of persons and property including, but not limited to, the following:

1. Restrictions on the public streets or other public property over which the structure shall be moved.
2. Requirements of changes, alterations or repairs to be made to the structure for the purpose of protecting the property of the City and its citizens, to protect the public safety and the public welfare.

10.08 LIABILITY INSURANCE. Every person moving a structure in the City shall file with the City Clerk a liability insurance policy issued by a solvent corporation holding a certificate of authority to do insurance business in the State, which policy shall conform in all respects to the requirements of this Section.

In lieu of filing the insurance policy herein referred to, a certificate of insurance issued by an insurance corporation may be filed. The certificate must show that a policy meeting the requirements of this Section has been issued and shall set forth the expiration date of said policy.

The liability policy required under this Section shall insure the person moving the structure against loss from liability imposed by law for injury to or death of any person or damage to any property arising out of the moving of such structure to the limits of fifty thousand dollars (\$50,000.00) on account of injury to or death of any one person, one hundred thousand dollars (\$100,000.00) on account of

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injury to or death of more than one person, and twenty five thousand dollars (\$25,000.00) for damage to property.

- 10.09 PROTECTION OF PROPERTY. The person to whom a moving permit is granted shall notify the Superintendent of Public Works, and the owner's agent or representative of any utility system, to move or remove any utility and shall make satisfactory arrangements for removing and replacing the same giving such owner's agents or representatives of any utility system and the Superintendent of Public Works a minimum of at least forty eight (48) hours notice of the necessity of such removal. If, in the judgment of the Superintendent of Public Works, planking is necessary for the protection of the City streets, the permittee shall plank all paved streets in such a manner as to protect the paving and shall also protect all sidewalks, poles and other City property and, in the event of damage, repair the damaged property.

All costs and expenses incurred by the City or the owners of any utility system which may be necessary for the protection of the rights of any owner or any other party interested in any property affected shall be paid by the party to whom the moving permit is issued.

- 10.10 PERMIT FEE. The fee for the issuance of a moving permit hereunder shall be twenty five dollars (\$25.00).
- 10.11 APPEAL. Any person aggrieved by the refusal to grant a permit hereunder shall have the right to appeal to the Board of Adjustment within forty eight (48) hours of the issuance of the permit. Such appeal shall be perfected within forty-eight (48) hours by filing with the City Clerk, during normal business hours, a statement that an appeal is requested to the Board of Adjustment, together with a brief statement of the reasons or facts upon which the appeal is based. Pursuant to its rules and regulations, the board shall then hear the appeal and grant the permit or sustain the decision of the Zoning Officer in denying the permit. If the denial is sustained, the board shall state the reasons therefore.
- 10.12 BUILDING PERMIT REQUIRED. Compliance with the provisions of this Chapter shall not relieve or excuse the applicant from complying with the requirements in obtaining a building permit under the provisions of obtaining such permit.
- 10.13 EXEMPTIONS.
1. Moving Through City: When a structure is to be moved through the City to a point outside the City, and the person moving the structure has been issued a moving permit by the State or Lyon County, the Zoning Officer may exempt such persons from the requirements of this Chapter if it appears that no damage will be done to the property of the City or its citizens as a result of such move.

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2. Mobile Homes Within The City: When a mobile home is to be moved from outside the City to a licensed mobile home park within the City or from one licensed mobile home park within the City to another licensed mobile home park, the Zoning Officer may exempt the mover from the requirements of this Chapter if it appears that no damage will be done to the property of the City or its citizens as a result of such move.
 3. Factory-built structures, which shall include "manufactured homes" as defined in section 414.28 of the Iowa Code or title 42, section 5402 of the U.S. Code, and modular homes as defined in section 135D. 1 of the Iowa Code, for which a moving permit has been issued by the Iowa Department of Transportation shall be exempt from the requirements of this Chapter.
- 10.14 PENALTY. Anyone violating any of the provisions of this chapter 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 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.

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CHAPTER 8: BUILDING CODE

ARTICLE 11 - MINIMUM REQUIREMENTS FOR RESIDENTIAL STRUCTURES

- 11.01. STRUCTURES. All structures intended for residential occupancy placed, erected, assembled or constructed in the City after the effective date of this Section shall meet and comply with the following minimum requirements.
- 11.02. STRUCTURE SIZE: Each such structure shall have a "main body" with a minimum exterior dimension of at least sixteen feet (16') measured from outside of the exterior walls.
- 11.03. MINIMUM FLOOR AREA: Each such structure shall have a minimum floor area of not less than eight hundred (800) square feet. [In order to comply with the provisions of the foregoing section 11.02 and this subsection 11.03, the minimum exterior dimensions of a residential structure shall not be less than sixteen feet by fifty feet (16' x 50')]. A structure may include porches, sunrooms, garages and "wings" of lesser dimensions and area, so long as the "main body" meets the minimum requirements.
- 11.04. FOUNDATION: All residential structures shall have a continuous and complete frost protected perimeter foundation, except that a perimeter foundation shall not be required for a manufactured home if a perimeter foundation is incompatible with the structural design of the manufactured home structure. For such a manufactured home, a permanent foundation may be a pier footing foundation system designed and constructed to be compatible with the structure and the conditions of the site.

Foundation materials may be masonry, poured concrete, wood or metal and must extend below the normal frost line. The structure must be permanently attached to the foundation.

11.05. EXTERIOR WALL AND ROOF MATERIAL:

1. Exterior wall covering shall be wood or masonry finish, vertical or horizontal grooved siding or lap siding, or the appearance thereof.
2. Roofing material shall be shingles (asphalt, fiberglass or wood), slate, ceramic, or metal of a type customarily used for residential roofing material, such as "standing seam" or embossed or textured metal.
3. Smooth, unfinished or corrugated metal or fiberglass shall not be used for exterior wall or roof covering.

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4. Soffits, eaves, window and door trim (not exceeding 18 inches in width), roofs and coverings over bay and bow windows and doors may be smooth finished metal, vinyl or wood or unfinished metal, such as copper, customarily used for residential structure trim.
- 11.06. CEILING HEIGHT: A minimum finished ceiling height of not less than seven and one-half (7 1/2') feet.
- 11.07. ENTRANCE AND EXIT DOORS: Not less than two (2) functional entrance and exit doors.
- 11.08. WHEELS, AXLES OR TOWING DEVICE. No residence structure shall have attached wheels, axles or a towing device.
- 11.09. EXEMPTION. The provisions of this Article 3 shall not apply to "mobile" or "manufactured" homes placed in a mobile home park or a mobile home subdivision in compliance with the zoning or subdivision ordinances of the City of Larchwood.

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CHAPTER 9: FIRE PREVENTION CODE AND FIRE FIGHTING

ARTICLE 12 – OPEN BURNING

- 12.01 PURPOSE. The purpose and intent of this article is to prohibit open burning except where there is no other reasonable means of producing a similar public benefit.
- 12.02 OPEN BURNING PROHIBITED. No person shall ignite, cause to be ignited, permit to be ignited, allow or maintain any fire for the purpose of burning or consuming yard waste, refuse, garbage, or other waste material, except as specifically provided in section 12.03 of this article.
- 12.03 EXCEPTIONS TO BURNING PROHIBITION.
- A. Recreational Fires: Fires for cooking, heating, and recreation. All such fires must use only charcoal; clean, dry, seasoned firewood; natural gas or propane. All such fires shall be within a noncombustible container device, structure or fire ring designed for the purpose of containing a fire. Recreational fires shall be no larger than three feet (3') in diameter and two feet (2') in height.
 - B. Disaster Rubbish: The open burning of rubbish, including landscape waste, for the duration of a community disaster period in cases where an officially declared emergency exists.
 - C. Training Fires: Fires set and used for the purpose of bona fide instruction and training of public, institutional or industrial employees in the methods of firefighting.
 - D. City Landscape Waste Disposal Site: Burning conducted by, or at the direction of, employees of the city department of public works at the city's designated landscape waste disposal site.
 - E. Incinerators: Incinerators operated by permit issued by the Iowa department of natural resources, when operated in accordance with the permit.
 - F. Open Burning By Permit: Such open burning activities for which an open burning permit has been requested from, and issued by, the Larchwood fire chief or his designee. Open burning activities for which a permit may be issued include: ceremonial fires for groups or organizations; prescribed landscape fires for the maintenance of native prairie grasses and agricultural areas; and such other open burning activities as are deemed necessary and appropriate.

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- 12.04 OPEN BURNING SITES. It shall be unlawful to start, maintain or allow open burning on any pavement, street, avenue, alley, or other public right of way; or on any private ground within ten feet (10') of any building (including overhangs), woodpile, wooden structure or other property subject to damage by fire, including wooden patios and wooden decks.
- 12.05 ATTENDANCE OF FIRE. All open burning shall be constantly attended by a competent person until the fire is extinguished.
- 12.06 PROCLAMATION. The mayor or chief of the fire department may prohibit open burning during periods of extremely dry conditions or under other conditions when open burning is dangerous to life or property. Such a prohibition shall be implemented by proclamation which shall be posted at the fire station and at city hall and shall be distributed to all newspapers and radio stations located in the city.
- 12.07 WIND RESTRICTIONS. No fire shall be ignited or maintained when the velocity of the wind exceeds twenty (20) miles per hour.
- 12.08 OPEN BURNING PERMITS. Any person who desires to accomplish open burning in the city pursuant to the provisions of subsection 12.03 of this article may submit an application for approval of an open burning permit. No application fee is required. Upon receipt of such an application, the fire chief or his designee shall investigate the application and shall determine, in his discretion, whether the permit should be denied or granted and, if granted, under what conditions or limitations.

In granting an open burning permit, the fire chief shall consider potential damage to property or persons; potential adverse effects of smoke and other products of combustion; alternative disposal methods available; and the relative costs of alternative disposal methods.

- 12.09 AUTHORITY OF PUBLIC OFFICERS. The Larchwood fire chief or assistant chiefs of the Larchwood Fire Department, mayor, or Lyon County Sheriff's Officers may require that any open burning activity in the city be immediately discontinued, if the officer or mayor determines the activity to be in violation of the provisions of this chapter or to be potentially harmful to persons or property.

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TITLE VII

TITLE VII - COMMUNITY DEVELOPMENT

TITLE VII

CHAPTER 1: MOBILE HOMES AND MOBILE HOME PARKS

ARTICLE 1 - MOBILE HOMES

1.01 PURPOSE. The purpose of this chapter is to provide for municipal regulation of mobile homes and mobile home parks in furtherance of the public health, safety, morals and welfare.

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

1. "Mobile Home or House Trailer": shall mean any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa.

2. "Mobile Home park or Trailer Camp": shall mean any site, lot, field or tract of land upon which two (2) or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of such mobile home park. The term "mobile home park" shall not be construed to include mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students.

1.03 LOCATION OF MOBILE HOMES. It shall be unlawful for any person, firm or corporation to park or place any mobile home on the streets, alleys or highways, any public place, or on any private land within this city, except as is provided by state law and this chapter. This section shall not apply to:

1. Mobile Home Parks. Mobile homes parked or placed within duly licensed mobile home parks.

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

3. Existing Mobile Homes. Mobile homes located outside of mobile home parks as of August 15, 1976.

4. Replacement of Existing Mobile Home. Mobile homes parked or placed outside a mobile home park subsequent to August 15, 1976, when such mobile home replaces or is substituted for a mobile home located outside a mobile home park under circumstances where the land on which the mobile

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home is placed or parked was owned prior to August 15, 1976, by the person owning and seeking to place or park the new or substituted mobile home, and where the person seeking to place or park the new or substituted mobile home owned the old mobile home prior to August 15, 1976, and it is the intention of the owner of the land to personally occupy the new or substituted mobile home; it being the meaning and intent of this ordinance to permit the substitution of a newer mobile home for an older mobile home where the older mobile home was owned prior to August 15, 1976, by the person seeking to make the substitution and the site of the mobile home was likewise owned prior to August 15, 1976, by the person seeking to make the substitution.

- 1.04 SPECIAL PERMITS. The council, upon application of a mobile home owner, may issue special permits for the location of mobile homes outside mobile home parks. The council shall issue such special permits only when it appears that location within local mobile home parks is impracticable and public health, safety and welfare interests will not be seriously affected by granting the permit. Special permits shall not be granted for periods in excess of six (6) months. Not more than one mobile home shall be permitted to be located on the same premises outside of mobile home parks.
- 1.05 APPLICATION FOR SPECIAL PERMIT. Application for a special permit shall be accompanied by an inspection fee of ten (\$10.00) dollars. The application shall contain:
1. Description of Mobile Home. A description of applicant's mobile home.
 2. Property Description. A property description of the place where the mobile home will be located.
 3. Property Owner. The name of the owner of the premises upon which he or she mobile home will be located together with the written approval from the owner of the premises where the mobile home will be located.
 4. Sanitation Facilities. Information on sanitation facilities of the mobile home and those available at the place of location.
 5. Mobile Home Park. A statement concerning the practicability of location within a local mobile home park.
 6. Duration of permit. A statement of the desired duration of the special permit.

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- 1.06 EMERGENCY AND TEMPORARY PARKING. Emergency or temporary parking of mobile homes upon the streets, alleys or highways or any other public or private place for a period not in excess of 48 hours shall not constitute a violation of Section 1.03 of this Article, but such parking shall be subject to any prohibitions or regulations contained in other ordinances of this City.
- 1.07 MOBILE HOME PARK LICENSE. No person, firm or corporation shall establish, maintain, conduct or operate a mobile home park within this city without first obtaining an annual license therefore from the State Department of Health. No person, firm or corporation shall construct, expand, remodel or make alterations to the sanitary facilities in a mobile home park within this city without first obtaining a permit therefore from the State Department of Health.

TITLE VII

EDITOR'S NOTES:

Urban Renewal Areas are not to be included in updates of Code Book, since the ordinances are in effect for a limited time (years). Code of Iowa Section 380.8 (1a) indicates no need to including within a City's Code Book.

The City has a Zoning Ordinance which is not included within this Code Book.

The City has a Subdivision Ordinance which is not included within this Code book.

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APPENDIX A

APPENDIX A - FRANCHISES

Alliance Communications under terms and conditions of a Franchise Agreement provides both telephone and cable service to the City. This Franchise agreement along with all other City franchise agreements, contracts and amendments of such are on file in the City of Larchwood's City Clerk's Office.

APPENDIX A

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