

# **CODE OF ORDINANCES CITY OF SHELBY, IOWA**

## **2012**

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**TITLE I GENERAL PROVISIONS**  
**CHAPTER 1 GENERAL PROVISIONS**

1-1-1	Definitions	1-1-9	City Powers
1-1-2	Grammatical Interpretation	1-1-10	Indemnity
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1-1-4	Construction	1-1-12	Extension of Authority
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1-1-8	Amendments to Code, Effect of New Ordinances, Amendatory Language	1-1-16	Standard Penalty

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

1. "City" means the City of Shelby, Iowa, or the area within the territorial limits of the City, and such territory outside of the City over which the City has jurisdiction or control by virtue of any constitutional or statutory provision;
2. "Clerk" means Clerk-Treasurer.
3. "Computation of time" means the time within which an act is to be done. It shall be computed by excluding the first day and including the last day; and if the last day is Sunday or a legal holiday, that day shall be excluded;
4. "Council" means the City Council of the City. All its members or all Council persons mean the total number of Council persons provided by the City charter under the general laws of the state;
5. "County" means the County of Pottawattamie or Shelby County, Iowa;
6. "Delegation of Authority" means whenever a provision appears requiring an officer of the City to do some act or make certain inspections, it is to be construed to authorize the officer to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.
7. "Fiscal Year" means July 1 to June 30.

8. "Law" denotes applicable federal law, the Constitution and statutes of the State of Iowa, the Ordinances of the City; and when appropriate, any and all rules and regulations which may be promulgated thereunder;
9. "May" confers a power;
10. "Month" means a calendar month;
11. "Must" states a requirement;
12. "Oath" shall be construed to include an affirmative or declaration in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words "affirm" and "affirmed" shall be equivalent to the words "swear" and "sworn";
13. "Or" may be read "and" and "and" may be read "or" if the sense requires it;
14. "Ordinance" means a law of the City; however, an administrative action, order or directive, may be in the form of a resolution;
15. "Owner" applied to a building or land includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land;
16. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock associate trust or other legal entity, and includes a trustee, receiver, assignee, or a similar representative thereof, but does not include a governmental body., natural person, any other legal entity, or the manager, lessee, agent, servant, officer, or employee of any of them;
17. "Personal property" includes money, goods, chattels, things in action and evidences of debt;
18. "Preceding" and "following" mean next before and next after, respectively;
19. "Property" includes real and personal property;
20. "Real property" includes any interest in land;
21. "Shall" imposes a duty;
22. "Sidewalk" means that portion of a street between the curb line and the adjacent property line intended for the use of pedestrians;
23. "State" means the State of Iowa;

23. "Street" includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this City which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state;
24. "Tenant" and "occupant" applied to a building or land, includes any person who occupies whole or a part of such building or land, whether alone or with others;
25. "Title of Office". Use of the title of any officer, employee, board or commission means that officer, employee, department, board or commission of the City;
26. "Writing" and "Written" include printed, typewritten, or electronically transmitted such as facsimile or electronic mail;
27. "Year" means a calendar year;
28. All words and phrases shall be construed and understood according to the common and approved usage of the language; but technical words and phrases and such other as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning;
29. When an act is required by an Ordinance the same being such that it may be done as well by an agent as by the principal, such requirement shall be construed as to include all such acts performed by an authorized agent.
30. "Building" means any man-made structure permanently affixed to the ground.

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

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

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

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

1-1-5 AMENDMENT. All Ordinances of the City Council passed thereafter shall be in the form of an addition or amendment to the Shelby Municipal Code of 2011 constituting this Municipal Code, and shall include proper references to chapter and section to maintain the orderly codification of the Ordinances.

(Code of Iowa, Sec. 380.2)

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

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

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

1. All ordinances passed subsequent to this Code which amend, repeal or in any way affect this City Code may be numbered in accordance with the numbering system of this City Code and printed for inclusion herein. When subsequent ordinances repeal any chapter, section, or subsection or any portion thereof, such repealed portions may be excluded from this City Code by omission from reprinted pages. The subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this City Code and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances.
2. Amendments to any of the provisions of this City Code may be made by amending such provisions by specific reference to the section or subsection number of this City Code in substantially the following language: "That section \_\_\_\_\_ of the Code of Ordinances, City of Shelby, Iowa is hereby amended to read as follows:..." The new provisions shall then be set out in full as desired.

3. In the event a new section not heretofore existing in this City Code is to be added, the following language may be used: “That the Code of ordinances, City of Shelby, Iowa, is hereby amended by adding a section, to be numbered \_\_\_\_\_, which said section reads as follows: ...” The new section shall then be set out in full as desired.

1-1-9 POWERS. The City may, except as expressly limited by the Iowa Constitution, and if not inconsistent with the laws of the Iowa General Assembly, exercise any power and perform any function it deems appropriate to protect and preserve the rights, privileges and property of the City and of its residents, and preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents and each and every provision of this Code of Ordinances shall be deemed to be in the exercise of the foregoing powers and the performance of the foregoing functions.

(Code of Iowa, Sec. 364.1)

1-1-10 INDEMINITY. 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.

1-1-11 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.

1-1-12 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.

1-1-13 ALTERING CODE. It is unlawful for any unauthorized person to change or amend by additions or deletions, any part or portion of the Code of Ordinances, or to insert or delete pages, or portions thereof, or to alter or tamper with the Code of Ordinances in any manner whatsoever which will cause the law of the City to be misrepresented thereby.

1-1-14 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.

1-1-15 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.

1.16 STANDARD PENALTY. Unless another penalty is expressly provided by the Code of Ordinances for any particular provision, section or chapter, any person failing to perform a duty, or obtain a license required by, or violating any provision of the Code of Ordinances, or any rule or regulation adopted herein by reference shall, upon conviction, be subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment not to exceed thirty (30) days.

*(Code of Iowa, Sec. 364.3[2J])*

## **TITLE I GENERAL PROVISIONS**

### **CHAPTER 2 RIGHT OF ENTRY**

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

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

## TITLE I GENERAL PROVISIONS

### CHAPTER 3 PENALTY

- |   |                               |
|---|-------------------------------|
| 1-3-1 General Penalty                     | 1-3-4 Environmental Violation |
| 1-3-2 Civil Penalty -Municipal Infraction | 1-3-5 Special Civil Penalties |
| 1-3-3 Scheduled Fines                     | 1-3-6 Criminal Penalties      |

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

(Code of Iowa, Sec. 903.1(1)(a))

1-3-2 CIVIL PENALTY - MUNICIPAL INFRACTION.

(Code of Iowa, Sec. 364.22)

#### 1. Definitions.

a. Municipal Infraction. Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of an aggravated misdemeanor , or a serious misdemeanor, or declared to be unlawful, an offense or a misdemeanor by the Code of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances of the City of Shelby, or any Ordinance or Code herein adopted by reference, or omission or failure to perform any act or duty required by the Code of Ordinances City of Shelby, or any Ordinance or Code herein adopted by reference, is a "municipal infraction" and is punishable by civil penalty as provided herein.

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

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

#### 2. Violations, Penalties, and Alternative Relief.

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

## Schedule of Civil Penalties

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

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

- b. Each day that a violation occurs or is permitted to exist by the violator constitutes a separate offense.
- c. Seeking a civil penalty as authorized in this chapter does not preclude the City from seeking alternative relief from the court in the same action.

### 3. Civil Citations

- a. Any officer authorized by the City to enforce the Code of Ordinances may issue a civil citation to a person who commits a municipal infraction.
- b. The citation may be served by personal service, substituted service, or by certified mail, return receipt requested, or by publication as provided in the Iowa Rules of Civil Procedure.
- c. The original of the citation shall be filed with the Clerk of the district court. If the infraction involves real property a copy of the citation shall be filed with the county treasurer.
- d. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:
  - (1) The name and address of the defendant.
  - (2) The name or description of the infraction attested to by the officer issuing the citation.
  - (3) The location and time of the infraction.
  - (4) The amount of civil penalty to be assessed or the alternative relief sought, or both.
  - (5) The manner, location, and time in which the penalty may be paid.
  - (6) The time and place of court appearance.
  - (7) The penalty for failure to appear in court.

(8) The legal description of the affected property, if applicable.

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

1-3-4 ENVIRONMENTAL VIOLATION. A municipal infraction which is a violation of Chapter 455B of the Code of Iowa or of a standard established by the City in consultation with the Department of Natural Resources, or both, may be classified as an environmental violation. However, the provisions of this section shall not be applicable until the City has offered to participate in informal negotiations regarding the violation or to the following specific violations:

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

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

#### 1-3-5 SPECIAL CIVIL PENALTIES

1. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. § 403.8, by an industrial user is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each day a violation exists or continues.
2. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than one thousand dollars (\$1,000.00) for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:
  - 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

1-3-6 CRIMINAL PENALTIES. This chapter does not preclude a peace officer from issuing a criminal citation for a violation of this Code of Ordinances or regulation if criminal penalties are also provided for the violation. Nor does it preclude or limit the authority of the City to enforce the provisions of this Code of Ordinances by criminal sanctions or other lawful means.

## **TITLE I GENERAL PROVISIONS**

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

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

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

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

#### **1-4-2 GENERAL.**

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

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

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

"You are hereby notified that an evidentiary hearing will be held before the Shelby City Council at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at the hour \_\_\_\_\_, upon the notice and order served upon you. You may be present at the hearing. You may be, but need not be, represented by counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to

compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit therefor with the City Clerk."

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

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

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

f. To self-representation or to be represented by anyone of the party's choice who is lawfully permitted to do so.

7. Official notice.

a. What may be noticed. In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any fact which may be judicially noticed by the courts of this state or of official records of the City or its departments and Ordinances of the City.

b. Parties to be notified. Parties present at the hearing shall be informed of the matters to be noticed, and these matters shall be noted in the record, referred to therein, or appended thereto.

c. Opportunity to refute. Parties present at the hearing shall be given a reasonable opportunity, on request, to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the City Council.

8. Inspection of the premises. The City Council may inspect any building or premises involved in the appeal during the course of the hearing, provided that:

a. Notice of such inspection shall be given to the parties before the inspection is made;

b. The parties are given an opportunity to be present during the inspection; and

c. The City Council shall state for the record, upon completion of the inspection, the material facts observed and the conclusions drawn therefrom. Each party then shall have a right to rebut or explain the matters so stated by the City Council.

1-4-6 METHOD AND FORM OF DECISION.

1. Hearings before the City Council where a contested case is heard before the City Council, no member thereof who did not hear the evidence or alternatively has not read or listened to the entire record of the proceedings shall vote on or take part in the decision. The City Council may designate a member or members to preside over the receipt of evidence. Such member or members shall prepare findings of fact for the City Council.

2. Form of decision. The decision shall be in writing and shall contain findings of fact, a determination of the issues presented, and the requirements to be complied with. A copy of the decision shall be delivered to the parties personally or sent to them by certified mail, postage prepaid, return receipt requested.

3. Effective date of decision. The effective date of the decision shall be stated therein.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 1 CITY CHARTER

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

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

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

(Code of Iowa, Sec. 372.4)

2-1-3 POWERS AND DUTIES. The City Council and Mayor and other City officers have such powers and shall perform such duties as are authorized or required by state law and by the Ordinances, resolutions, rules and regulations of the City of Shelby, Iowa.

2-1-4 NUMBER AND TERM OF CITY COUNCIL. The City Council consists of five City Council members elected at large, for overlapping terms of four (4) years.

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.4)

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

**\*Editor's note:** Ordinance No. 34 adopting a charter for the City was passed and approved by the Council on July 7, 1975, and was published on July 8, 1975. An election to amend the charter was held November 2, 1982, changing the term of Council Members from two years to four years.

**TITLE II POLICY AND ADMINISTRATION**

**CHAPTER 2 APPOINTMENT AND QUALIFICATIONS OF MUNICIPAL OFFICERS**

- 2-2-1 Creation of Appointive Officers
- 2-2-2 Appointment of Officers
- 2-2-3 Terms of Appointive Officers
- 2-2-4 Vacancies in Offices
- 2-2-5 Bonds Required
- 2-2-6 Surety
- 2-2-7 Blanket Position Bond
- 2-2-8 Bonds Filed
- 2-2-9 Boards and Commissions
- 2-2-10 Planning and Zoning Commission

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

2-2-2 APPOINTMENT OF OFFICERS. The Mayor shall appoint a Mayor Pro Tempore.

The City Council shall appoint the first Fire Chief of the volunteer fire department for a term of two (2) years. Future Fire Chiefs shall be elected for terms of two (2) years by the members of the volunteer Fire Department, with the approval of the City Council.

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

(Code of Iowa, Sec. 374.4(3))

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

2-2-4 VACANCIES IN OFFICES. A vacancy in an appointive office shall be filled in the same manner as the original appointment. A vacancy in an elective office shall be filled by a majority vote of all members of the City Council, unless filled by election in accordance with State law.

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

(Code of Iowa, Sec. 64.13)

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

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.23)

#### 2-2-9 BOARDS AND COMMISSIONS.

1. Membership and Sections. Membership and selections of members of boards and commissions shall be as specified in this Chapter or the Code of Iowa. Any committee, board, or commission so established shall cease to exist upon the accomplishment of the special purpose for which it was created, or when abolished by a majority vote of the City Council or as specified in the Code of Iowa.
2. Residency Requirement: No person shall be appointed or reappointed to a committee, board, or commission or ad hoc committee created by such committee, board, or commission unless such person is, at the time of such appointment or reappointment, a resident of the City, and any person so appointed or reappointed shall maintain such residency during the term of the appointment or reappointment. Any member of a committee, board, or commission or ad hoc committee created by such committee, board, or commission who fails to maintain such residency shall be deemed removed as of the date of such change of residency, any provision in this Code to the contrary notwithstanding.
3. Removal of Members of Boards and Commissions: The City Council may remove any member of any board or commission, which it has established.

#### 2-2-10 PLANNING AND ZONING COMMISSION.

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

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

4. All members of the Commission shall serve without compensation, except their actual expenses, which shall be subject to the approval of the Council. The salary of the Zoning Administrator shall be fifty dollars (\$50.00) for every permit issued, and fifty dollars (\$50.00) for variances.

(Code of Iowa, Sec. 392.1)

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

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

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

(Code of Iowa, Sec. 392.1)

- e. Review and Comment on Plats. All plans, plats, or re-plats of subdivision or re-subdivisions of land embraced in the City or adjacent thereto, laid out in lots or plats with the streets, alleys, or other portions of the same intended to be dedicated

to the public in the City, shall first be submitted to the Commission and its recommendations obtained before approval by the Council.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 3 POWERS AND DUTIES OF MUNICIPAL OFFICERS

2-3-1	General Duties	2-3-9	Powers and Duties of the Utilities Superintendent
2-3-2	Books and Records	2-3-10	Reserved
2-3-3	Deposits of Municipal Funds	2-3-11	Powers and Duties of the Fire Chief
2-3-4	Transfer of Records and Property To Successor	2-3-12	Oaths
2-3-5	Powers and Duties of the Mayor	2-3-13	Conflict of Interest
2-3-6	Powers and Duties of the Clerk	2-3-14	Resignations
2-3-7	Reserved	2-3-15	Removal of Appointed Officers and Employees
2-3-8	Powers and Duties of the City Attorney	2-3-16	Gifts
		2-3-17	Meetings

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

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

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

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

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

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

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

1. The Mayor shall supervise all departments of the City and give direction to department heads concerning the functions of the departments. The Mayor shall have the power to examine all functions of the municipal departments, their records, and to call for special reports from department heads at any time.

(Code of Iowa, Section 372.14(1))

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

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

3. The Mayor may veto an Ordinance, amendment, or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the City Council at the time of the veto. Within thirty days after the Mayor's veto, the City Council may pass the measure again by a vote to not less than two-thirds of all of the members of the City Council. If the Mayor vetoes an ordinance, amendment, or resolution and the City Council repasses the measure after the Mayor's veto, a resolution becomes effective immediately upon repassage, and an Ordinance or amendment becomes a law when the Ordinance or a summary of the Ordinance is published, unless a subsequent effective date is provided within the Ordinance or amendment.

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

Code of Iowa. Sec. 380.6

4. The Mayor shall represent the City in all negotiations properly entered into in accordance with law or Ordinance. The Mayor shall not represent the City where this duty is specifically delegated to another officer by law or Ordinance.
5. The Mayor shall, whenever authorized by the City Council, sign all contracts on behalf of the City.
6. The Mayor shall call special meetings of the City Council when the Mayor deems such meetings necessary to the interests of the City.
7. The Mayor shall make such oral or written reports to the City Council at the first meeting of every month as referred. These reports shall concern municipal affairs generally, the municipal departments, and recommendations suitable for City Council action.

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

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

9. The Mayor shall, upon order of the City Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the City Council the Mayor shall conduct said duties in accordance with the City Ordinance and the laws of the State of Iowa.
10. The Mayor shall sign all licenses and permits which have been granted by the City Council, except those designated by law or Ordinance to be issued by another municipal officer.
11. Upon authorization of the City Council, the Mayor shall revoke permits or licenses granted by the City Council when their terms, the Ordinances of the City, or the laws of the State of Iowa are violated by holders of said permits or licenses.
12. The Mayor shall order to be removed, at public expense, any nuisance for which no person can be found responsible and liable. This order shall be in writing. The order to remove said nuisances shall be carried out by law enforcement.
13. The Mayor shall have authority to take command of the police and govern the City by proclamation, upon making a determination that a time of emergency or public danger exists. Within the City limits, the Mayor has all the powers conferred upon the Sheriff to suppress disorders.
14. The Mayor shall make appropriate provision that duties of any absentee officer be carried on during such absence.
15. The Mayor is not a member of the Council and shall not vote as a member of the Council.

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

1. The Clerk shall attend all regular and special City Council meetings and prepare and publish a condensed statement of the proceedings thereof, to include the total expenditure from each

City fund. The statement shall further include a list of all claims allowed, a summary of all receipts and the gross amount of the claims.

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 362.3)

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

(Code of Iowa, Sec. 380.11)

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

8. The Clerk shall keep separate accounts for every appropriation, department, public improvement or undertaking, and for every public utility owned or operated by the City. Each account shall be kept in the manner required by law.  
(Code of Iowa, Sec. 384.20)
9. Following City Council adoption for the budget, the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors.  
(Code of Iowa, Sec. 384.16(5))
10. The Clerk shall report to the City Council at the first meeting of each month the status of each municipal account as of the end of the previous month.
11. The Clerk shall balance all funds with the bank statement at the end of each month.
12. The Clerk shall prepare the annual public report, publish it, and send a certified copy to the State Auditor and other State officers as required by law.  
(Code of Iowa, Sec. 384.22)
13. The Clerk shall maintain all City records as required by law.  
(Code of Iowa, Sec. 372.13(3) and (5))
14. The Clerk shall have custody and be responsible for the safekeeping of all writings or documents in which the municipality is a party in interest unless otherwise specifically directed by law or Ordinance.  
(Code of Iowa, Sec. 372.13(4))
15. The Clerk shall file and preserve all receipts, vouchers, and other documents kept, or that may be required to be kept, necessary to prove the validity of every transaction and the identity of every person having any beneficial relation thereto.
16. The Clerk shall furnish upon request to any municipal officer a copy of any record, paper or public document under the Clerk's control when it may be necessary to such officer in the discharge of the Clerk's duty. The Clerk shall furnish a copy to any citizen when requested upon payment of the fee set by City Council resolution. The Clerk shall, under the direction of the Mayor or other authorized officer, affix the seal of the corporation to those public documents or instruments which by Ordinance are required to be attested by the affixing of the seal.  
(Code of Iowa, Sec. 380.7(4), Sec. 22.2 and 22.7)
17. The Clerk shall attend all meetings of committees, boards and commissions of the City. The Clerk shall record and preserve a correct record of the proceedings of such meetings.  
(Code of Iowa, Sec. 372.13(4))

18. The Clerk shall keep and file all communications and petitions directed to the City Council or to the City generally. The Clerk shall endorse thereon the action of the City Council taken upon matters considered in such communications and petitions.  
(Code of Iowa, Sec. 372.13(4))
19. The Clerk shall issue all licenses and permits approved by the City Council, and keep a record of licenses and permits issued which shall show a date of issuance, license or permit number, official receipt number, name of person to whom issued, term of license or permit, and purpose for which issued.  
(Code of Iowa, Sec. 372.13(4))
20. The Clerk shall inform all persons appointed by the Mayor or City Council to offices in the municipal government of their position and the time at which they shall assume the duties of their office.  
(Code of Iowa, Sec. 372.13(4))
21. The Clerk shall preserve a complete record of every City election, regular or special and perform duties required by law or Ordinance of the City Clerk in regard to elections.  
(Code of Iowa, Sec. 376.4)
22. The Clerk shall draw all warrants/checks for the City upon the vote of the City Council.  
(Code of Iowa, Sec. 372.13(4))
23. The Clerk shall show on every warrant/check the fund on which it is drawn and the claim to be paid.  
(Code of Iowa, Sec. 372.13(4))
24. The Clerk shall keep a warrant/check record in a form approved by the City Council, showing the number, date, amount, payee's name, upon what fund drawn, and for what claim each warrant/check is issued.  
(Code of Iowa, Sec. 372.13(4))
25. The Clerk shall bill and collect all charges, rents or fees due the City for utility and other services, and give a receipt therefor.  
(Code of Iowa, Sec. 372.13(4))
26. Annually, the Clerk shall prepare and submit to the City Council an itemized budget of revenues and expenditures.  
(Code of Iowa, Sec. 384.16)
27. The Clerk shall keep the record of each fund separate.  
(Code of Iowa, Sec. 372.13(4) and 384.85)

28. The Clerk shall keep an accurate record for all money or securities received by the Clerk on behalf of the municipality and specify date, from whom, and for what purposes received.  
(Code of Iowa, Sec. 372.13(4))
29. The Clerk shall prepare a receipt in duplicate for all funds received. The Clerk shall give the original to the party delivering the funds, and retain the duplicate.  
(Code of Iowa, Sec. 372.13(4))
30. The Clerk shall keep a separate account of all money received by the Clerk for special assessments.  
(Code of Iowa, Sec. 372.13(4))
31. The Clerk shall, immediately upon receipt of monies to be held in the Clerk's custody and belonging to the City, deposit the same in banks selected by the City Council in amounts not exceeding monetary limits authorized by the City Council.  
(Code of Iowa, Sec. 372.13(4))
32. The Clerk shall keep a register of all bonds outstanding and record all payments of interest and principal.
33. The Clerk shall keep custody of the City seal, and it shall be attached by the Clerk to all transcripts, orders and certificates which it may be necessary or proper to authenticate. The City seal is circular in form, in the center of which are the words "CORPORATE SEAL" and around the margin the words "CITY OF SHELBY - SHELBY COUNTY, IA."
34. The Clerk shall perform the following duties relating to elections and nominations:
- a. 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 seventy-seven (77) days before the date of the regular City election.  
(Code of Iowa, Sec. 376.6)
  - b. 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)
  - c. 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)
  - d. Note upon each petition and affidavit accepted for filing the date and time that the petition was filed.  
(Code of Iowa, Sec. 376.4)

- e. Deliver all nomination petitions, together with the text of any public measure being submitted by the Council to the electorate, to the County Commissioner of Elections not later than five o'clock (5:00) p.m. on the day following the last day on which nomination petitions can be filed.

(Code of Iowa, Sec. 376.4)

2-3-7 RESERVED.

2-3-8 POWERS AND DUTIES OF THE CITY ATTORNEY. The duties of the City Attorney shall be as follows:

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

1. Upon request, the City Attorney shall attend regular meetings of the City Council and attend those special meetings of the City Council at which the City Attorney is required to be present.
2. The City Attorney shall, upon request, formulate drafts for contracts, forms and other writings which may be required for the use of the City.
3. The City Attorney shall keep in proper files a record of all official opinions and a docket or register of all actions prosecuted and defined by the City Attorney accompanied by all proceedings relating to said actions.
4. The City Attorney shall, upon request, give an opinion in writing upon all questions of law relating to municipal matters submitted by the City Council, the Mayor, members of the City Council individually, municipal boards or the head of any municipal department.
5. The City Attorney shall prepare those Ordinances when the City Council may desire and direct to be prepared and report to the City Council upon all Ordinances before their final passage by the City Council and publication.
6. The City Attorney shall act as Attorney for the City in all matters affecting the City's interest and appear on behalf of the City before any court, tribunal, commission or board. The City Attorney shall prosecute or defend all actions and proceedings when so requested by the Mayor or City Council.
7. The City Attorney shall, however, if directed by the City Council, appear to defend any municipal officer or employee in any cause of action arising out of or in the course of the performance of the duties of his or her office or employment.

8. The City Attorney shall sign the name of the City to all appeal bonds and to all other bonds or papers of any kind that may be essential to the prosecution of any cause in court, and when so signed the City shall be bound upon the same.
9. The City Attorney shall make a written report to the City Council and interested department heads of the defects in all contracts, documents, authorized power of any City officer, and Ordinances submitted to said City Attorney or coming under said City Attorney's notice.
10. The City Attorney shall, upon request, after due examination, offer a written opinion on and recommend alterations pertaining to contracts involving the City before they become binding upon the City or are published.

2-3-9 POWERS AND DUTIES OF THE UTILITIES SUPERINTENDENT The duties of the utilities superintendent shall be as follows:

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

1. The Superintendent shall be responsible for the management, operation and maintenance of all municipal utilities.
2. The Superintendent shall keep records of accounts payable, revenues, accounts receivable, expenditures made, depreciation of plant and equipment, and a continuous up-to-date inventory of all goods and supplies. The Superintendent shall keep all other records ordered to be kept by the Mayor in addition to those provided for by law or Ordinance.
3. The Superintendent shall make a report every month in writing to the Mayor and City Council on the present state of the public utilities. In this report shall be specifically stated the financial condition, production and the general condition of the entire utilities enterprise. The Superintendent shall, at the close of every year, compile (or cause to be compiled) a written annual report of the activities and general condition of the public utilities of the City. This report shall contain a statement of the general progress and accomplishments of the plants and systems for the year covered in the report; a statement of financial operations for the year showing revenues, expenditures, and profits or losses; a summary of the history of the financial operations of the plant for the past five (5) years showing total revenue, cost of operations, depreciation, interest on bonds and net profits; a statement of free services rendered to the municipality during the year and their estimated cash value; a statement of the rate schedules that are presently in effect; and a balance sheet with a statement of all assets, liabilities and reserves.
4. The Superintendent shall supervise the installation of all storm sewers in the City in accordance with the regulations of the department of public works pertaining to the installation of storm sewers.
5. The Superintendent shall supervise maintenance and repair of sidewalks, alleys, bridges, and streets and keep them in a reasonably safe condition for travelers. The Superintendent shall

immediately investigate all complaints of the existence of dangerous or impassable conditions of any sidewalk, street, alley, bridge, underpass or overpass, or other city property, and is charged with the duty of correcting unsafe defects.

6. The Superintendent shall, whenever snow or ice imperil travel upon streets and alleys, be in charge of removing said snow and ice from the streets and alleys in the City and shall do whatever else is necessary and reasonable to make travel upon streets and alleys of the City safe.
7. The Superintendent shall compile and maintain written records of the purchases, accomplishments, disposition of equipment and manpower, an up-to-date inventory, and activities contemplated by the street department. The Superintendent shall make monthly oral and written reports of the activities of the department to the Mayor on or before the first day of each month.
8. The Superintendent shall perform all other duties of a public works nature which are not specifically assigned to other municipal officials or employees.
9. The Superintendent shall operate and maintain the City sewage system
10. The Superintendent shall conduct necessary inspections and tests to assure compliance with the provisions of the Sanitary Sewer chapter.
11. The Superintendent shall maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

2-3-10 RESERVED.

2-3-11 POWERS AND DUTIES OF THE FIRE CHIEF. The duties of the Fire Chief shall be as follows:

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

1. The Fire Chief shall be charged with the duty of maintaining the efficiency, discipline and control of the fire department. The members of the fire department shall, at all times, be subject to the direction of the Fire Chief.
2. The Fire Chief shall enforce all rules and regulations established by the City Council for the conduct of the affairs of the fire department.
3. The Fire Chief shall exercise and have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.
4. The Fire Chief shall cause to be kept records of the fire department personnel, operating cost and efficiency of each element of fire fighting equipment, depreciation of all equipment and

apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

5. The Fire Chief shall make monthly written reports on or before the fifth day of each month to the Mayor and City Council concerning the general status and efficiency of the fire department, the number of alarms answered during the month previous, and additional information that may be requested by the Mayor or the City Council. The Fire Chief shall compile an annual report based upon the records maintained by the fire department and summarizing the activities of the fire department for the year. This report shall be filed with the Mayor. The annual report shall also contain recommendations for the improvement of the department.
6. The Fire Chief shall enforce all Ordinances and, where enabled, state laws regulating the following:
  - a. Fire prevention.
  - b. Maintenance and use of fire escapes.
  - c. The investigation of the cause, origin and circumstances of fires.
  - d. The means and adequacy of exits in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.
  - e. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.
7. The Fire Chief shall have the right of entry into any building or premises within the Fire Chief's jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. The Fire Chief shall there conduct such investigation or inspection that the Fire Chief considers necessary in light of state law, regulations or Ordinance.
8. The Fire Chief shall make such recommendations to owners, occupants, caretakers or managers of buildings necessary to eliminate fire hazards.
9. The Fire Chief shall, at the request of the State Fire Marshal, and as provided by law, aid said Marshal in the performance of the Marshal's duties by investigating, preventing and reporting data pertaining to fires.
10. The Fire Chief shall, when in charge of a fire scene, direct an operation as necessary to extinguish or control a fire, perform a rescue operation, investigate the existence of a suspected or reported fire, gas leak, or other hazardous condition, or take any other action deemed necessary in the reasonable performance of the department's duties.

11. The Fire Chief shall prohibit an individual, vehicle or vessel from approaching a fire scene and remove from the scene any object, vehicle, vessel or individual that may impede or interfere with the operation of the fire department.
12. The Fire Chief shall, when in charge of a fire scene, place or erect ropes, guards, barricades or other obstructions across a street, alley, right-of-way, or private property near the location of the fire or emergency so as to prevent accidents or interference with the fire fighting efforts of the fire department, to control the scene until any required investigation is complete, or to preserve evidence related to the fire or other emergency.
13. Whenever death, serious bodily injury, or property damage in excess of two hundred thousand dollars (\$200,000) has occurred as a result of a fire, or if arson is suspected, notify the State Fire Marshal's Division immediately. For all other fires causing an estimated damage of fifty dollars (\$50.00) or more or emergency responses by the Fire Department, file a report with the Fire Marshal's Division within ten (10) days following the end of the month. The report shall indicate all fire incidents occurring and state the name of the owners and occupants of the property at the time of the fire, the value of the property, the estimated total loss to the property, origin of the fire as determined by investigation, and other facts, statistics, and circumstances concerning the fire incidents.
14. No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief.

2-3-12 OATHS. The oath of office shall be required and administered in accordance with the following:

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

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

- a. Mayor
- b. City Clerk
- c. Members of all boards, commissions or bodies created by law.  
(Code of Iowa, Sec. 63A.2)

2-3-13 CONFLICT OF INTEREST. A City officer or employee shall not have an interest, direct or indirect, in any contract or job of work or material or the profits thereof or services to be furnished or performed for the City, unless expressly permitted by law. A contract entered into in violation of this section is void. The provisions of this section do not apply to:

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.
2. Investment of Funds. The designation of a bank or trust company as a depository, paying agent, or for investment of funds The designation of a bank or trust company as a depository, paying agent, or for investment of funds.
3. City Treasurer. An employee of a bank or trust company, who serves as Treasurer of the City.
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.
5. Newspaper. The designation of an official newspaper.
6. Existing Contracts. A contract in which a City officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract may not be renewed.
7. Volunteers. Contracts with volunteer fire fighters or civil defense volunteers.
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.

9. **Contracts.** Contracts made by the City upon competitive bid in writing, publicly invited and opened.
10. **Cumulative Purchases.** Contracts not otherwise permitted by this section, for the purchase of goods or services which benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of twenty-five hundred dollars (\$2500.00) in a fiscal year.
11. **Franchise Agreements.** Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.

2-3-14 **RESIGNATIONS.** An elected officer who wishes to resign may do so by submitting a resignation in writing to the Clerk so that it shall be properly recorded and considered. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which the person was elected, if during that time the compensation of the office has been increased.

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

2-3-15 **REMOVAL OF APPOINTED OFFICERS AND EMPLOYEES.** Except as otherwise provided by State or City law, all persons appointed to City office or employment may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed in the office of the Clerk, and a copy shall be sent by certified mail to the person removed, who, upon request filed with the Clerk within thirty (30) days after the date of mailing the copy, shall be granted a public hearing before the Council on all issues connected with the removal. The hearing shall be held within thirty (30) days after the date the request is filed, unless the person removed requests a later date.

(Code of Iowa, Sec. 372.15)

2-3-16 **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)

2-3-17 **MEETINGS.** All meetings of the Council, any board or commission, or any multi-membered body formally and directly created by any of the foregoing bodies shall be held in accordance with the following:

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

(Code of Iowa, Sec. 21.4)

2. Meetings Open. All meetings shall be held in open session unless closed sessions are held as expressly permitted by State law.  
(Code of Iowa, Sec. 21.3)
3. Minutes. Minutes shall be kept of all meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.  
(Code of Iowa, Sec. 21.3)
4. Closed Session. A closed session may be held only by affirmative vote of either two-thirds of the body or all of the members present at the meeting and in accordance with Chapter 21 of the Code of Iowa.  
(Code of Iowa, Sec. 21.5)
5. Cameras and Recorders. The public may use cameras or recording devices at any open session.  
(Code of Iowa, Sec. 21.7)
6. Electronic Meetings. A meeting may be conducted by electronic means only in circumstances where such a meeting in person is impossible or impractical and then only in compliance with the provisions of Chapter 21 of the Code of Iowa.  
(Code of Iowa, Sec. 21.8)

**TITLE II POLICY AND ADMINISTRATION**  
**CHAPTER 4 SALARIES OF MUNICIPAL OFFICERS**

2-4-1 Council Member

2-4-3 Mayor Pro Tem

2-4-2 Mayor

2-4-4 Other Officers

2-4-1 COUNCIL MEMBER. The salaries of each City Council member shall be \$20 for each meeting of the City Council.

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

2-4-2 MAYOR. The Mayor shall receive an annual salary of \$200 plus \$20 for each Council meeting at which the Mayor presides to be paid in equal semi-annual installments.

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

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

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

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

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 5 CITY FINANCE

2-5-1 Budget Adoption	2-5-8 Budget Officer
2-5-2 Budget Amendment	2-5-9 Expenditures
2-5-3 Budget Protest	2-5-10 Authorizations to Expend
2-5-4 Accounts and Programs	2-5-11 Accounting
2-5-5 Annual Report	2-5-12 Budget Accounts
2-5-6 Council Transfers	2-5-13 Contingency Accounts
2-5-7 Administrative Transfers	

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

(Code of Iowa, Sec. 384.16)

1. A budget shall be prepared for at least the following fiscal year. When required by rules of the State City finance committee, a tentative budget shall be prepared for one or two ensuing years. The proposed budget shall show estimates of the following:
  - a. Expenditures for each program.
  - b. Income from sources other than property taxation.
  - c. Amount to be raised by property taxation, and the property tax rate expressed in dollars per one thousand dollars valuation.

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

2. Not less than ten nor more than twenty days before the date that the budget must be certified to the County Auditor, the Clerk shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers, and have them available for distribution at the offices of the Mayor and Clerk and at the City library, if any, or at three places designated by Ordinance for posting notices.
3. The City Council shall set a time and place for public hearing on the budget before the final certification date and shall publish notice before the hearing as provided in Iowa law. Proof of publication shall be filed with the County Auditor.

4. At the hearing, any resident or taxpayer of the City may present to the City Council objections to any part of the budget for the following fiscal year or arguments in favor of any part of the budget.
5. After the hearing, the City Council shall adopt a budget for at least the following fiscal year, and the Clerk shall certify the necessary tax levy for the following year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than but not more than the amount estimated in the proposed budget, unless an additional tax levy is approved at a City election. Two copies of the complete budget as adopted shall be transmitted to the County Auditor.

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

(Code of Iowa, Sec. 384.18)

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

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

2-5-3 BUDGET PROTEST. Within a period of ten days after the final date that the budget or amended budget may be certified to the County Auditor, persons affected by the budget may file a written protest with the County Auditor, specifying their objection to the budget or any part of it. A protest must be signed by qualified voters equal in number to one-fourth of one percent of the votes cast for governor in the last preceding general election in the City, but not less than ten persons, and the number need not be more than one hundred persons.

(Code of Iowa, Sec. 384.19)

2-5-4 ACCOUNTS AND PROGRAMS. The City shall keep separate accounts corresponding to the programs and items in its adopted or amended budget, as recommended by the State City Finance Committee.

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

(Code of Iowa, Sec. 384.20)

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

(Code of Iowa, Sec. 384.22)

2-5-6 COUNCIL TRANSFERS. When the City Clerk determines that one or more appropriation accounts need added authorizations to meet required expenditures therein the City Clerk shall inform the City Council or if the City Council upon its own investigation so determines, and another account within the same programs has an appropriation in excess of foreseeable needs, or, in the case of a clear emergency or unforeseeable need, the contingency account has an unexpended appropriation which alone or with the other accounts can provide the needed appropriations, the City Council shall set forth by resolution the reductions and increases in the appropriations and the reason for such transfers. Upon the passage of the resolution and approval by the Mayor, as provided by law for resolutions, the City Clerk shall cause the transfers to be set out in full in the minutes and be included in the published proceedings of the City Council. Thereupon the Clerk, and where applicable, the City Treasurer, shall cause the appropriation to be revised upon the appropriation expenditure ledgers of the City, but in no case shall the total of the appropriation of a program be increased except for transfers from the contingency account nor shall the total appropriation for all purposes be increased except by a budget amendment made after notice and hearing as required by law for such amendments.

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

2-5-7 ADMINISTRATIVE TRANSFERS. The City Clerk shall have power to make transfers within a single activity between objects of expenditures within activities without prior City Council approval.

The City Clerk shall have the power to make transfers between activities, or between sub-programs without prior City Council approval to meet expenditures which exceed estimates or are unforeseen but necessary to carry out City Council directives or to maintain a necessary service and provide the required appropriation balance. Such transfers shall not exceed 10% at any one time of the activity's annual appropriation which is increased or decreased. However, when a given transfer, considering all previous transfers to or from any activity to exceed by ten percent greater or ten percent less than

the original appropriation, it shall be presented to the City Council as a resolution including all such administrative transfers to date in the fiscal year for consideration and passage as presented, or as amended by the City Council.

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

2-5-8 BUDGET OFFICER. The City Clerk shall be the City budget officer and is responsible for preparing the budget data in cooperation with the City Council or Mayor. The City Clerk shall be responsible for carrying out the authorizations and plans in the budget as set forth in the budget, subject to City Council control and the limitations set out in this Ordinance.

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

2-5-9 EXPENDITURES. No expenditure shall be authorized by any City officer or employee except as herein provided. All purchases of services, supplies and equipment shall be made only after issuance of a purchase order and no invoice shall be accepted unless authorized by such an order. Purchases not exceeding ten dollars (\$10.00) may be made by those officials authorized by the City Council but only on issuance of a spot purchase order in writing signed by the authorized officer. A copy of such spot purchase order must be delivered to the Clerk within twenty-four (24) hours, weekends, and holidays excepted. All other purchases shall be valid only if a purchase order has been given in writing and signed by the Clerk. Purchases from petty cash shall be excepted.

2-5-10 AUTHORIZATIONS TO EXPEND. All purchase orders other than those excepted herein shall be authorized by the City budget officer after determining whether the purchase, if a major item, has been authorized by the budget or other City Council approval. The Clerk shall then determine whether a purchase order may be issued by checking the availability of an appropriation sufficient to pay for such a purchase. A purchase order may be issued only if there is an appropriation sufficient for the purchase and for other anticipated or budgeted purposes. If no adequate appropriation is available for the expenditure contemplated the Clerk shall not issue a purchase order until a budget amendment to transfer of appropriation is made in accordance with power delegated by City Council and within the limits set by law and the City Council. The Clerk shall draw a warrant/check only upon an invoice received, or progress billing for a public improvement, supported by a purchase order and a signed receipt or other certification indicating the material has been delivered of the quality and in the quantities indicated or the services have been performed satisfactorily to the extent invoiced.

2-5-11 ACCOUNTING. The Clerk shall set up and maintain books of original entry to provide a chronological record of cash received and disbursed through all receipts given and warrants written, which receipts and warrants shall be prenumbered, in accordance with modern, accepted methods, and the requirement of the state. The Clerk shall keep a general ledger controlling all cash transactions, budgetary accounts and recording unappropriated surpluses. Warrants/checks shall be signed by the City Clerk and Mayor.

(Code of Iowa, Sec. 384.20)

2-5-12 BUDGET ACCOUNTS. The Clerk shall set up such individual accounts to record receipts by source and expenditures by program and purpose as will provide adequate information and control for budgetary purposes as planned and approved by the City Council. Each individual account shall be maintained within its proper fund as required by City Council order or State law and shall be so kept that receipts can be immediately and directly compared with specific estimates and expenditures can be related to the appropriation which authorized it. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

(Code of Iowa, Sec. 384.20)

2-5-13 CONTINGENCY ACCOUNTS. Whenever the City Council shall have budgeted for a contingency account the Clerk shall set up in the accounting records but the Clerk shall not charge any claim to a contingency account. Said contingency accounts may be drawn upon only by City Council resolution directing a transfer to a specific purpose account within its fund and then only upon compelling evidence of an unexpected and unforeseeable need or emergency.

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 6 POSTING

2-6-1 Purpose

2-6-3 Removal Unlawful

2-6-2 Listing; Length of Notice

2-6-1 PURPOSE. The City of Shelby, Iowa has no newspaper published within the corporate limits of the City, and publications of notice of elections, Ordinances and amendments may be made by posting in three public places which have been permanently designated by Ordinance.

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

2-6-2 LISTING, LENGTH OF NOTICE. The three public places where public notice of Ordinances and other matters permitted to be posted are to be displayed are:

1. City Hall
2. Post Office
3. Shelby County State Bank

The City Clerk is hereby directed to promptly post notices of elections, Ordinances, and amendments, and to leave them so posted for not less than ten days after the first date of posting, and the City Clerk shall note the first date of such posting on the official copy of the Ordinance and in the official Ordinance book immediately following the Ordinance.

(Code of Iowa, Sec. 380.7)

2-6-3 REMOVAL UNLAWFUL. It shall be unlawful for any person other than the city clerk to remove any public notice. Any unlawful removal of a public notice or posting shall not affect the validity of the Ordinance or action taken.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 7 CITY ELECTIONS

2-7-1 Purpose	2-7-6 Filing, Presumption, Withdrawals, Objections
2-7-2 Nominating Method to be Used	2-7-7 Persons Elected
2-7-3 Nominations by Petition	2-7-8 Primary and Runoff Abolished
2-7-4 Adding Name by Petition	
2-7-5 Preparation of Petition	

2-7-1 PURPOSE. The purpose of this chapter is to designate the method by which candidates for elective municipal offices in the City shall be nominated and elected.

2-7-2 NOMINATING METHOD TO BE USED. All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.  
(Code of Iowa, Sec. 376.3)

2-7-3 NOMINATIONS BY PETITION. Nominations for elective municipal offices of the City may be made by nomination paper or papers signed by not less than ten eligible electors, residents of the City.  
(Code of Iowa, Sec. 45.1)

2-7-4 ADDING NAME BY PETITION. The name of a candidate placed upon the ballot by any other method than by petition shall not be added by petition for the same office.  
(Code of Iowa, Sec. 45.2)

2-7-5 PREPARATION OF PETITION. Each eligible elector shall add to the signature the elector's residence address, and date of signing. The person whose nomination is proposed by the petition may not sign it. Before filing said petition, there shall be endorsed thereon or attached thereto an affidavit executed by the candidate, which affidavit shall contain:

1. Name and Residence. The name and residence (including street and number, if any) of said nominee, and the office to which nominated.
2. Name on Ballot. A request that the name of the nominee be printed upon the official ballot for the election.
3. Eligibility. A statement that the nominee is eligible to be a candidate for the office and if elected will qualify as such officer.
4. Organization Statement. A statement, in the form required by Iowa law, concerning the organization of the candidate's committee.

Such petition when so verified shall be known as a nomination paper.

(Code of Iowa, Sec. 45.5)

2-7-6 FILING, PRESUMPTION, WITHDRAWALS, OBJECTIONS. The time and place of filing nomination petitions, the presumption of validity thereof, the right of a candidate so nominated to withdraw and the effect of such withdrawal, and the right to object to the legal sufficiency of such petitions, or to the eligibility of the candidate, shall be governed by the appropriate provisions of Chapter 44 of the Code of Iowa.

2-7-7 PERSONS ELECTED. The candidates who receive the greatest number of votes for each office on the ballot are elected, to the extent necessary to fill the positions open.

2-7-8 PRIMARY AND RUNOFF ABOLISHED. The Council has adopted Chapters 44 and 45 of the Code of Iowa for conducting elections and in accordance with Section 376.6(2), Code of Iowa, no primary or runoff election will be conducted for City offices.

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 8 POLICE DEPARTMENT

2-8-1	Reserved	2-8-7	Police Chief; Duties
2-8-2	Reserved	2-8-8	Reserved
2-8-3	Reserved	2-8-9	Reserved
2-8-4	Reserved	2-8-10	Reserved
2-8-5	Reserved	2-8-11	Contract Law Enforcement
2-8-6	Reserved		

2-8-1 RESERVED

2-8-2 RESERVED

2-8-3 RESERVED

2-8-4 RESERVED

2-8-5 RESERVED

2-8-6 RESERVED

2-8-7 POLICE CHIEF; DUTIES. The Police Chief has the following powers and duties subject to the approval of the City Council.

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

1. General. Perform all duties required of the Police Chief by law or ordinance.
2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.
3. Writs. Execute and return all writs and other processes directed to the Police Chief.
4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.  
(Code of Iowa, Sec. 321.266)
5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.
6. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.

7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.
8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.
9. Reports. Compile and submit to the Mayor and City Council an annual report as well as such other reports as may be requested by the Mayor or City Council.
10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

2-8-8 RESERVED

2-8-9 RESERVED

2-8-10 RESERVED

2-8-11 CONTRACT LAW ENFORCEMENT. In lieu of the appointment of a Police Chief by the Mayor, the City Council may contract with the County Sheriff or any other qualified lawful entity to provide law enforcement services within the City and in such event the Sheriff or such other entity shall have and exercise the powers and duties of the Police Chief as provided herein.

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

## TITLE II POLICY AND ADMINISTRATION

### CHAPTER 9 CITY COUNCIL

2-9-1 Powers and Duties

2-9-3 Meetings

2-9-2 Exercise of Power

2-9-1 POWER AND DUTIES. The powers and duties of the City Council include, but are not limited to the following:

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

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

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

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

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

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

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

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

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

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

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

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

7. Setting Compensation for Elected Officers. By ordinance, the City Council shall prescribe the compensation of the Mayor, City Council members, and other elected City officers, but a change in the compensation of the Mayor does not become effective during the term in which the change is adopted, and the City Council shall not adopt such an ordinance changing the compensation of any elected officer during the months of November and December in the

year of a regular City election. A change in the compensation of City Council members becomes effective for all City Council members at the beginning of the term of the City Council members elected at the election next following the change in compensation.

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

2-9-2 EXERCISE OF POWER. The City Council shall exercise a power only by the passage of a motion, a resolution, an amendment, or an ordinance in the following manner:

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

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

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

2-9-3 MEETINGS. Procedures for giving notice of meetings of the City Council and other provisions regarding the conduct of City Council meetings are contained in Section 5.06 of this Code of Ordinances. Additional particulars relating to City Council meetings are the following:

1. Regular Meetings. The regular meetings of the City Council are on the first Tuesday of each month at 7:00 o'clock (7:00) p.m. in the City Council Chambers at City Hall. If such day falls on a legal holiday or Christmas Eve, the meeting is held on such different day or time as determined by the City Council.
2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the written request of a majority of the members of the City Council submitted to the City Clerk. Notice of a special meeting shall specify the date, time, place and subject of the meeting and such notice shall be given personally or left at the usual place of residence of each member of the City Council. A record of the service of notice shall be maintained by the City Clerk.  
(Code of Iowa, Sec. 372.13(5))
3. Quorum. A majority of all City Council members is a quorum.  
(Code of Iowa, Sec. 372.13(1))
4. Rules of Procedure. The City Council shall determine its own rules and maintain records of its proceedings.  
(Code of Iowa, Sec. 372.13(5))
5. Compelling Attendance. Any three (3) members of the City Council can compel the attendance of the absent members at any regular, adjourned or duly called meeting, by serving a written notice upon the absent members to attend at once.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 1 OFFENSES

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

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

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

1. Engage in fighting or violent behavior or invite or defy another person to fight, provided that participants in athletic contests may engage in such conduct which is reasonably related to that sport.

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

2. Make unusually loud or excessive noise which results in the disturbance of the peace and the public quiet of a neighborhood.

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

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

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

4. Direct abusive language or make any threatening gesture which the person knows or reasonably should know is likely to provoke a violent reaction by another.

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

5. Without lawful authority or order of authority, disturb any lawful assembly or meeting of persons by conduct intended to disrupt the meeting or assembly.

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

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

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

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

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

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

- a. 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])

- b. 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 student 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)

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

(Code of Iowa, Sec. 723.2)

10. 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)

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

3-1-4 STREETS.

1. Removal of safeguards or danger signals. No person shall willfully remove, tear down, destroy, deface, or carry away from any highway, street, alley, avenue or bridge any lamp,

obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said highway, street, alley, avenue or bridge without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.5)

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

(Code of Iowa, Sec. 716.1)

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

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

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

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

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

(Code of Iowa, Sec. 364.1)

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

(Code of Iowa, Sec. 321.369)

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

4. False alarms. No person shall give or cause to be given any false alarm of a fire, nor set fire to any combustible material, or cry or sound an alarm or by any other means **without cause.** No person shall by words or action, initiate or circulate a report or warning of fire, epidemic, or other catastrophe, know such report to be false or such warning to be baseless.

5. Stench bombs. No person shall throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous, sickening, irritating or offensive to any of the senses in, on or about a theater, restaurant, car, structure, place of business, or amusement, or any place of public assemblage, or attempt to do any of these acts, or prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this State; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.
6. Discharging firearms and fireworks.  
(Code of Iowa, Sec. 727.2)
  - a. No person, firm, or corporation shall discharge or fire any cannon, gun, bomb, pistol, air gun, or other firearms or set off or burn firecrackers, torpedoes, sky rockets, roman candles, or other fireworks of like construction or any fireworks containing any explosive or inflammable compound, or other device containing any explosive. No person shall intentionally discharge a firearm in a reckless manner.
  - b. The City Council may upon application in writing, grant a permit for the display and use of fireworks by any organization or groups of individuals when such fireworks display will be handled by a competent operator. 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 per person
    - 2) Property Damage - \$50,000
    - 3) Total Exposure - \$1,000,000
  - c. The City Council may, upon application in writing, grant a permit for the operation of a firing range in which the discharge of firearms for training, recreational or competitive events would be allowed upon showing that the range would be under the direction of a competent organization, group or individual.
  - d. In the interest of public health and safety and at such times as approved by the Chief of Police, the police or their designee may use firearms to control rodent or animal problems when it is evident that conventional control methods have not resolved the problem.
  - e. Nothing herein shall be construed to prohibit the use of blank cartridges for a show or the theatre, or for signal purposes in athletic sports or by railroads, or trucks, for signal purposes, or by a recognized military organization and provided further that nothing in this section

shall apply to any substance or composition prepared and used for medicinal or fumigation purposes.

7. Possession of Fireworks.

- a. Definition. The term "fireworks" includes any explosive composition, or combination of explosives, substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion or detonation and includes blank cartridges, firecrackers, torpedoes, sky rockets, Roman Candles or other fireworks of like construction and fireworks containing any explosive or flammable compound, or other device containing any explosive substance. The term "fireworks" does not include gold star-producing sparklers on wires that contain no magnesium or chlorate or perchlorate, flitter sparklers in paper tubes that do not exceed 1/8 inch in diameter, toy snakes that contain no mercury, or caps used in cap pistols.
- b. Exemption. The use of blank cartridges for a show or the theater, or for signal purposes in athletic events, or by railroads or trucks for signal purposes, or by recognized military organizations is exempt from this Subsection.
- c. Prohibition. No person shall possess fireworks except as provided in this Chapter.

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

(Code of Iowa, Sec. 727.3)

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

(Code of Iowa, Sec. 718.2)

10. Harassment of City Employees.

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

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

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

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

(Code of Iowa, Sec. 364.1)

13. Playing in streets. No person shall coast, sled or play games on streets or highways except in areas blocked off by the Chief of Police for such purposes.

(Code of Iowa, Sec. 364.12)

14. Harassment. No person shall commit harassment.

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

1) 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)

2) Places any simulated explosive or simulated incendiary device in or near any building, vehicle, airplane, railroad engine or railroad car, or boat occupies by such other person

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

b. 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.

15. Disrespect of Flag. No person shall knowingly and publicly use the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United

States, with the intent or reasonable expectation that such use will provoke or encourage another to commit a public offense.

16. **Distribute Dangerous Substances.** No person shall distribute samples of any drugs or medicine, or any corrosive, caustic, poisonous or other injurious substance unless the person delivers such into the hands of a competent person, or otherwise takes reasonable precautions that the substance will not be taken by children or animals from the place where the substance is deposited.
17. **False Reports.** No person shall:
  - a. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, know that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.
  - b. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.
  - c. Knowingly provide false information to a law enforcement officer who enter the information on a citation.
18. **Refusing to Assist Officer.** Any person who is requested or ordered by any magistrate or peace officer to render the magistrate or officer assistance in making or attempting to make an arrest, or to prevent the commission of any criminal act, shall render assistance as required. No person shall unreasonably and without lawful cause, refuse or neglect to render assistance when so requested.
19. **Interference with Official Acts.** No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or fire fighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms “resist” and “obstruct” as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.
20. **Criminal Mischief.** It is unlawful, for any person who has no right to do so, to intentionally damage, deface, alter or destroy tangible property. Any person found to be in violation of Section 3-1-5 (20) will be charged for any damage, plus \$50. For the first violation and an additional \$50.00 per violation, thereafter. In the event such violator is under eighteen (18) years of age, the parent or legal guardian of the violator will be responsible for the cost of any damage plus \$50.00 per violation and an additional \$50.00 per violation, thereafter. All charges will be payable to the City of Shelby within sixty (60) days from the date of the violation. Additionally, all violations will be reported to the Shelby County Sheriff’s Department for any further action.

21. Unauthorized Entry. No person shall enter or remain in or upon any public building, premises or grounds in violation of any notice posted thereon or when said building, premises or grounds are closed and not open to the public. When open to the public, a failure to pay any required admission fee also constitutes an unauthorized entry.
22. Trespassing Prohibited. No person shall knowingly trespass upon the property of another. As used in this section, the term “property” includes any land, dwelling, building, conveyance, vehicle or other temporary or permanent structure whether publicly or privately owned. The term “trespass” means one or more of the following acts:
- a. Entering Property Without Permission. Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense or to use, remove therefrom, alter, damage, harass or place thereon or therein anything animate or inanimate.  
(Code of Iowa, Sec. 716.7[2a])
  - b. Entering or Remaining on Property. Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.  
(Code of Iowa, Sec. 716.7[2b])
  - c. Interfering with Lawful Use of Property. Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.  
(Code of Iowa, Sec. 716.7[2c])
  - d. Using Property Without Permission. Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.  
(Code of Iowa, Sec. 716.7[2d])

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

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

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

(Code of Iowa, 714.8)

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

(Code of Iowa, Sec. 714.1)

25. Disorderly House.

- a. The term “disorderly house” means any structure or any room therein, or any part of the premises adjacent thereto, in or upon which occurs any disorderly conduct or any of the following prohibited activities:
  - 1) The open storage, use or consumption of a controlled substance as defined in Chapter 124 of the Code of Iowa, under which chapter possession of such substance would be an offense
  - 2) Gambling in violation of Chapter 99B of the Code of Iowa
  - 3) Dispensing, selling, or consumption of an alcoholic beverage in violation of Chapter 123 of the Code of Iowa
  - 4) Acts of prostitution, pimping or pandering as defined in Chapter 725 of the Code of Iowa
- b. No person shall knowingly keep a disorderly house as defined in Section 3-1-5 (25a). For the purpose of this section, “keep” means ownership or having the control of a structure or a room therein or any part of the adjacent premises.
- c. No person shall frequent or be found in a disorderly house as defined in this section.

26. Interference with Privacy. No person shall look into windows or doors of any building or other accommodation being used as the permanent or temporary living quarters of another without justification or without the permission of the owner, lessee or person in lawful possession of the living quarters and while on the premises of the owner, lessee or person in lawful possession.

### 3-1-6 PUBLIC PROPERTY.

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

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

2. Injuring new pavement. No person shall injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.

(Code of Iowa, 364.12(2))

3. Destroying park equipment. No person shall destroy or injure any property or equipment in public swimming pools, playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.

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

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

5. Defacing or destroying proclamations or notices. No person shall intentionally deface, obliterate, tear down or destroy in whole or in part any transcript or extract from or of any law of the United States or of this State, or any proclamation, advertisement or notification, set up at any place within the City by authority of law or by order of any court, during the time for which the same is to remain set up.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 716.1)

10. Injury to roads, railways, and other utilities. No person shall maliciously injure, remove or destroy any electric railway or apparatus belonging thereto, or any bridge, rail or plank road; or place or cause to be placed, any obstruction on any electric railway, or on any such bridge,

rail or plank road; or willfully obstruct or injure any public road or highway; or maliciously cut, burn, or in any way break down, injure or destroy any post or pole used in connection with any system of electric lighting, electric railway, or telephone or telegraph system; or break down and destroy or injure and deface any electric light, telegraph or telephone instrument; or in any way cut, break or injure the wires of any apparatus belonging thereto; or willfully without proper authorization tap, cut, injure, break, disconnect, connect, make any connection with, or destroy any of the wires, mains, pipes, conduits, meters or other apparatus belonging to, or attached to, the power plant or distributing system of any electric light plant, electric motor, gas plant or water plant; or aid or abet any other person in so doing.

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 727.8)

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

(Code of Iowa, Sec. 716.1)

13. No person shall throw stones, bricks or missiles of any kind or shoot arrows, rubber guns, slingshots, air rifles or other dangerous instruments or toys on or into any street, highway, alley, sidewalk, public way, public ground or public building, without written consent of the Council.

14. No person shall transmit directly or indirectly any sound produced by a radio, mechanical or electronic device into or through any device attached to or connected with any opening in any wall of any building, or to construct and operate any sound-producing apparatus which opens upon or has unobstructed exposure to any street, alley or public place in the City, whether within or without a building or other structure, without first procuring the written consent of the Mayor.

15. No person shall operate any radio, mechanical or electronic sound-producing device along, upon or in the air over the streets, alleys or public places within the City without first procuring the written consent of the Mayor. Nothing herein shall be construed as applying to ordinary automobile radios.

16. The use of the City park facilities are subject to the following:

- a. No person shall operate automobiles, trucks or other motorized vehicles in any City park or on any walking trail or any other City-owned property with the express permission of the City. The term “motorized vehicle” does not include a

motorized wheelchair or other similar device designed and used solely to assist a person with disabilities.

- b. No person shall build a fire, except in a place provided therefor, and such fire shall be extinguished before leaving the area unless it is to be immediately used by some other party.
- c. 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.
- d. No person, except those camping in designated areas, shall enter or remain within any park between the hours of eleven o'clock (11:00) p.m. and six o'clock (6:00) a.m.
- e. No person shall camp in any portion of a park except in portion prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 2 NUISANCES

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

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

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

(Code of Iowa, Sec. 657.1)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- i. Any object or structure hereafter erected within 1,000 feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation, including take-off and landing.

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

- j. The depositing or storing of inflammable junk on any real estate, including, but not limited to, old rags, rope, cordage, rubber, bones, boxes and paper, by any person, including a dealer in such articles, unless it is in a building of fire resistant construction.

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

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

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

- l. Dense growth of all weeds, grasses, vines, brush, or other vegetation in the City to a height of more than six (6) inches or so as to constitute a health, safety, or fire hazard including any City owned property between the abutting property line and the street right-of-way.

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

- m. Trees infected with Dutch Elm disease or oak wilt or any dead or dying tree, shrub, brush or wood, or any tree, shrub, brush, wood or debris infected with any disease so as to constitute a threat to the public health, safety or welfare.

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

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

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

(Code of Iowa, Sec. 716.1)

- p. Accumulations of rubbish or trash tending to harbor vermin, rodents, and rank growth of weeds or other vegetation and plants, which is conducive to hazard.  
(Code of Iowa, Sec. 657.2)
- q. Depositing any poisonous material or thing on any real estate, so as to allow access to it by any animal or person.
- r. Depositing or storing outside a completely enclosed building items that constitute a threat to the public health, safety or welfare, including but not limited to the following: old or scrap rope, rags, batteries, paper, cardboard or wooden boxes or containers, trash, rubber debris, tires, waste, used lumber or salvaged wood, inoperable machinery or appliances or parts of such machinery or appliances, vehicular component parts, iron, steel, old or scrap household goods or hardware, cut brush or wood including dead or decaying plant material except as contained in a compost pile or orderly stacked firewood if cut in lengths of four feet or less.
- s. Discarding or abandoning of refrigerators, iceboxes or similar containers equipped with an airtight door, lid with a snap, lock or other device which cannot be released from the inside, whether such is abandoned or discarded outside any building or dwelling or within any unoccupied or abandoned building, dwelling or other structure.
- t. Depositing or storing of litter, garbage or organic waste on any real estate; provided, however, that this article shall not prohibit the storage of litter, garbage or organic waste in authorized private receptacles for collection.
- u. Any motor vehicle, trailer or boat that is unlicensed, unsafe or inoperable found upon public or private real estate, and the contents therein, which is not stored within an enclosed building. This article shall not apply to legitimate businesses operating in a lawful place and manner provided, however, that such outside areas are screened from public view and do not constitute a threat to the public health, safety or welfare.
- v. Obstructing or encroaching by motor vehicles or otherwise upon any public or private, road, street, highway, or right-of-way which causes traffic or pedestrians to cross the marked centerline or leave the usual traveled portion of the roadway, right-of-way or sidewalk to travel around the obstruction or encroachment. This article shall not apply to emergency vehicles and official government or utility vehicles in the performance of their duties nor to other vehicles while legally maneuvering into position or momentarily engaged in receiving or discharging passengers, loading or unloading of merchandise, or in obedience to traffic regulations, signs or signals, or an involuntary stopping of the vehicle by reason or causes beyond the control of the operator.
- w. Businesses, the operation or maintenance of which adversely impacts nearby residential or commercial uses and which:

- a. Jeopardizes or endangers the public health or safety, or the health or safety of persons residing or working on the premises or in the surrounding area;
  - b. Has resulted in or facilitated any of the following activities: disturbances of the peace, illegal drug activity including sales or possession thereof, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, illegal parking, excessive noise (particularly between the hours of 11:00 p.m. and 7:00a.m.), noxious smells or fumes, traffic violations, or police detention, citations or arrests; or
  - c. Violates any other section of this article or any other city, state or federal regulation, ordinance or statute.
- x. Abandonment or allowing the abandonment of property in any public right-of-way abutting real estate owned or under control of such person. Property left in the public right-of-way of any road or alley, including but not limited to any personal and household items, furniture, appliances, machinery, equipment, building materials, or other items located on the public right-of-way shall be deemed abandoned.
  - y. It is unlawful for any owner to allow an animal to run at large within the corporate limits of the City.
  - z. Junk means all old or scrap copper, brass, lead, or any other nonferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles or parts of such vehicles, machinery and appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.
  - aa. Any accumulation of junk, dirt, filth, rubbish or garbage in or on any dwelling or in the yards, courts, passages, areas or alleys connected with or belonging to any dwelling.
- 2. The term "property owner" means the contract purchaser if there is one of record, otherwise the record holder of legal title.  
(Code of Iowa, Sec. 364.1)
  - 3. Inoperable and/or unsafe vehicle or boat is any motor vehicle or boat that:
    - a. Lacks any component part, engine or parts that render it incapable of use and/or unsafe for its intended use;
    - b. Has become a habitat of rats, mice, snakes, or other vermin or insects;
    - c. Because of its condition or method of storage constitutes a threat to public health and safety.

4. Motor vehicle is a device in, upon, or by which a person or property is or may be transported or drawn upon a highway, street or waterway, with the exception of devices moved by human power or used exclusively upon stationary rails or tracks, and includes without limitation an automobile, truck, trailer, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.
5. Public right-of-way includes the area of land, the right to possession of which is secured by the city for roadway purposes and includes the traveled portion of the public streets and alleys as well as the border area, which is all property outside the lot and property lines and inside the curb lines or traveled portion of the public streets or alleys.
6. Unlicensed motor vehicle or trailer is any vehicle or trailer that is not displaying a current license as required by state law. For the purposes of this article a valid current license shall not include a stored vehicle license issued under state law. Mere licensing of an inoperable or unsafe motor vehicle or trailer shall not constitute a defense to the finding that the presence of any vehicle constitutes a nuisance.

3-2-2 NUISANCES PROHIBITED. The creation or maintenance of a nuisance is prohibited, and a nuisance, public or private, may be abated in the manner provided in this chapter ~~or State law~~.  
(Code of Iowa, Sec. 657.3)

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

1. The removal of diseased trees or dead wood, but not diseased trees and dead wood outside the lot and property lines and inside the curb lines upon the public street.  
(Code of Iowa, Sec. 364.12(3)(b))
2. The removal, repair, or dismantling of dangerous buildings or structures.  
(Code of Iowa, Sec. 364.12(3)(c))
3. The numbering of buildings.  
(Code of Iowa, Sec. 364.12(3)(d))
4. The connection to public drainage systems from abutting property when necessary for public health or safety.  
(Code of Iowa, Sec. 364.12(3)(e))
5. The connection to public sewer systems from abutting property, and the installation of sanitary toilet facilities and removal of other toilet facilities on such property.  
(Code of Iowa, Sec. 364.12(3)(f))

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

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

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

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

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

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

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

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

3-2-6 METHOD OF SERVICE. The notice may be served by certified mail or personal service to the property owner as shown by the records of the County Auditor.

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

3-2-7 REQUEST FOR HEARING AND APPEAL. Any person ordered to abate a nuisance or condition may have a hearing with the Council as to whether a nuisance or prohibited condition 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 or prohibited condition exists and it must be abated as ordered. The findings of the Council shall be conclusive and, if a nuisance or prohibited condition is found to exist, it shall be ordered abated within a time reasonable under the circumstances.

3-2-8 ABATEMENT IN EMERGENCY. If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the City may perform any action that may

be required under this chapter without prior notice, and assess the costs as provided herein, after notice to the property owner under the applicable provision of Sections 3-2-4 and 3-2-5 and hearing as provided in Section 3-2-7.

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

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

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

3-2-10 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the City Clerk shall certify the costs to the County Treasurer and they shall then be collected with, and in the same manner, as general property taxes.

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

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

(Code of Iowa, Sec. 364.13)

3-2-12 CONDEMNATION OF NUISANCE. The City may condemn a residential building found to be a public nuisance and take title to the property for the public purpose of disposing of the property under Section 364.7 by conveying the property to a private individual for rehabilitation or for demolition and construction of housing.

(Code of Iowa, Sec. 364.12A)

## TITLE III COMMUNITY PROTECTION

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- 3-3-2 Definitions
- 3-3-3 Traffic Accident Reports
- 3-3-4 Police Department to Submit Annual Reports

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3-3-90 Local Parking Fines

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3-3-92 Tampering with Vehicle

3-3-93 Obstructing View at Intersections

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

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

1. "Park and parking" means the stopping or standing of a vehicle, except for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.
2. "Stand or standing" means the halting of a vehicle, whether occupied or not, except for the purpose of and while actually engaged in receiving or discharging passengers.
3. "Stop", when required means complete cessation of movement.
4. "Stop or stopping", when prohibited, means any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.
5. "Business districts" means: the territory contiguous to and including the following designated streets:
  - a. East Street from Spring Street to Border Street.
6. "Residential districts" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.

(Code of Iowa, Sec. 321.1)

7. School district means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.
8. Suburban district means all other parts of the City not included in the business, school or residence districts.
9. Traffic control device means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.
10. Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley

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

The City shall maintain a suitable system of filing traffic accident reports.  
(Code of Iowa, Sec. 321.266)

3-3-4 POLICE DEPARTMENT TO SUBMIT ANNUAL REPORTS. The Police Chief shall prepare annually a traffic report which shall be filed with the Mayor. Such report shall contain information on traffic matters in this City concerning the number of traffic accidents, the number of persons killed or injured, the number and nature of violations, and other pertinent traffic data including the plans and recommendations for future traffic safety activities.

#### ENFORCEMENT AND OBEDIENCE TO TRAFFIC REGULATIONS

3-3-5 AUTHORITY OF POLICE AND FIRE DEPARTMENT OFFICIALS. Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the officers of the police department. The officers of the police department are hereby authorized to direct all traffic by voice, hand or signal in conformance with traffic laws. In the event of a fire or other emergency, officers of the police department may direct traffic as conditions require notwithstanding the provisions of the traffic laws. Officers of the fire department may direct or assist the police in directing traffic threat or in the immediate vicinity.  
(Code of Iowa, Sec. 321.229)

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

1. 321.17 Misdemeanor to violate registration provisions
2. 321.20B Proof of security against liability – driving without liability coverage
3. 321.32 Registration card carried and exhibited - exception
4. 321.37 Display of plates
5. 321.38 Plates, method of attaching, imitations prohibited
6. 321.79 Intent to injure
7. 321.91 Limitation on liability – penalty for abandonment

8. 321.98 Operation without registration.
9. 321.99 Fraudulent use of registration
10. 321.174 Operators licensed – operation of commercial motor vehicles
11. 321.174A Operation of motor vehicle with expired license
12. 321.180 Violations of instruction permit limitations.
13. 321.180B Graduated driver’s licenses for persons aged fourteen through seventeen
14. 321.193 Violation of conditions of restricted license.
15. 321.194 Violation of conditions of minor’s school license.
16. 321.216 Unlawful use of license.
17. 321.216B Use of driver’s license or nonoperator’s identification card by underage person to obtain alcohol
18. 321.216C Use of driver’s license or nonoperator’s identification card by underage person to obtain cigarettes
19. 321.218 Driving without a valid license (as to simple misdemeanor offenses only).
20. 321.219 Permitting unauthorized minor to drive.
21. 321.220 Permitting unauthorized person to drive.
22. 321.221 Employing unlicensed chauffeur
23. 321.222 Renting motor vehicle to another
24. 321.223 Driver’s license inspection for motor vehicle rental
25. 321.224 Record kept
26. 321.229 Failure to comply with lawful order of peace officer.
27. 321.231 Failure of driver of emergency vehicle to exercise caution while on emergency run (stop signs and signals).
28. 321.232 Radar jamming devices.
29. 321.233 Road workers exempted
30. 321.234 Failure to observe seating requirements.
31. 321.234A All-terrain vehicles – highway use

32. 321.236 (Parking) Violation of local ordinance (not a state offense).
33. 321.247 Golf cart operation on city streets
34. 321.256 Failure to obey traffic control device.
35. 321.257 Failure to obey or yield to pedestrian or to official traffic control signal.
36. 321.259 Unauthorized signs, signals, or markings
37. 321.260 Unlawful possession of, or interference with traffic control device.
38. 321.262 Leaving scene of traffic accident – vehicle damage only
39. 321.263 Information and aid – leaving scene of personal injury accident
40. 321.264 Striking unattended vehicle.
41. 321.265 Striking fixtures upon a highway.
42. 321.275 Motorcycle and motorized bicycles violations.
43. 321.277 Reckless driving.
44. 321.278 Drag racing prohibited.
45. 321.285 Speed restrictions.
46. 321.286 Truck speed limits (highway).
47. 321.287 Bus speed limits (highway).
48. 321.288 Failure to maintain control.
49. 321.294 Failure to maintain minimum speed when directed by officer.
50. 321.295 Excessive speed on bridge.
51. 321.297 Driving on wrong side of two-way highway.
52. 321.298 Failure to yield half of roadway upon meeting vehicle.
53. 321.299 Passing on wrong side.
54. 321.302 Overtaking and Passing
55. 321.303 Unsafe passing.
56. 321.304 Unlawful passing.
57. 321.305 Violating one-way traffic designation.
58. 321.306 Improper use of lanes.
59. 321.307 Following too closely.

60. 321.308 Following too closely (trucks and towing vehicles).
61. 321.309 Failure to use approved drawbar.
62. 321.310 Unlawful towing of four-wheeled trailer.
63. 321.311 Turning from improper lane.
64. 321.312 Making U-turn on curve or hill.
65. 321.313 Unsafe starting of a stopped vehicle.
66. 321.314 Unsafe turn or failure to give signal.
67. 321.315 Failure to give continuous turn signal.
68. 321.316 Failure to signal stop or rapid deceleration.
69. 321.317 Signal light requirements; see equipment violation.
70. 321.318 Incorrect hand signal.
71. 321.319 Failure to yield to vehicle on right.
72. 321.320 Failure to yield upon left turn.
73. 321.321 Failure to yield upon entering through highway.
74. 321.322 Failure to obey stop or yield sign.
75. 321.323 Unsafe backing on highway.
76. 321.324 Failure to yield to emergency vehicle.
77. 321.325 Pedestrian disobeying traffic control signal.
78. 321.326 Pedestrian walking on wrong side of highway.
79. 321.327 Pedestrian right-of-way.
80. 321.328 Pedestrian failing to use crosswalk.
81. 321.329 Vehicle failing to yield to pedestrian.
82. 321.330 Use of crosswalks
83. 321.331 Soliciting ride from within roadway.
84. 321.332 Unlawful use of white cane.
85. 321.333 Failure to yield to blind person.
86. 321.340 Driving in or through safety zone.
87. 321.341 Failure to properly stop at railroad crossing.
88. 321.342 Failure to obey stop sign at railroad crossing.

- 89. 321.343 Failure to stop certain cargo or passenger vehicle at railroad crossing.
- 90. 321.344 Unlawful movement of construction equipment across railroad track.
- 91. 321.344B Immediate safety threat – penalty
- 92. 321.353 Unsafe entry into sidewalk or roadway.
- 93. 321.354 Stopping on traveled part of highway.
- 94. 321.358 Stopping, standing, or parking where prohibited.
- 95. 321.359 Moving other vehicle
- 96. 321.360 Prohibited parking in front of certain buildings.
- 97. 321.361 Parking too far from curb/angular parking.
- 98. 321.362 Parking without stopping engine and setting brake.
- 99. 321.363 Driving with obstructed view or control.
- 100. 321.364 Preventing contamination of food by hazardous material
- 101. 321.365 Coasting upon downgrade.
- 102. 321.366 Improper use of median, curb, or controlled access facility.
- 103. 321.367 Failure to maintain distance fire-fighting vehicle.
- 104. 321.368 Crossing unprotected fire hose.
- 105. 321.369 Putting debris on highway/roadway.
- 106. 321.370 Removing injurious material.
- 107. 321.371 Clearing up wrecks.
- 108. 321.372 School bus provisions.
- 109. 321.377 Excessive speed of school bus.
- 110. 321.381 Driving or towing unsafe vehicle.
- 111. 321.381A Operation of low speed vehicles
- 112. 321.382 Operating underpowered vehicle.
- 113. 321.383 Failure to display reflective device on slow-moving vehicles.
- 114. 321.384 Failure to use headlamps when required.
- 115. 321.385 Insufficient number of headlamps.
- 116. 321.386 Insufficient number of headlamps-motorcycles and motorized bicycles.
- 117. 321.387 Improper rear lamp.

118. 321.388 Improper registration plate lamp.
119. 321.389I Improper rear reflector.
120. 321.390 Reflector requirements.
121. 321.391 Improper type of reflector.
122. 321.392 Improper clearance lighting on truck or trailer.
123. 321.393 Lighting device color and mounting.
124. 321.394 No lamp or flag on rear-projecting load.
125. 321.395 Parking on certain roadways without parking lights.
126. 321.397 Improper light on bicycle.
127. 321.398 Improper light on other vehicle.
128. 321.402 Improper use of spotlight.
129. 321.403 Improper use of auxiliary driving lights.
130. 321.404 Improper brake light.
131. 321.405 Self-illumination
132. 321.406 Cowl lamps
133. 321.408 Back-up lamps.
134. 321.409 Improperly adjusted headlamps.
135. 321.415 Failure to dim.
136. 321.417 Single-beam road-lighting equipment
137. 321.418 Alternate road-lighting equipment
138. 321.419 Improper headlighting when night driving.
139. 321.420 Excessive number of driving lights.
140. 321.421 Special restrictions on lamps
141. 321.422 Lights of improper color-front or rear.
142. 321.423 Special light/signal provision.
143. 321.430 Defective braking equipment.
144. 321.431 Brake performance ability.
145. 321.432 Defective audible warning device.

146. 321.433 Unauthorized use of emergency audible warning devices on motor vehicle
147. 321.434 Use of siren or whistle on bicycle.
148. 321.436 Defective or unauthorized muffler system.
149. 321.437 Mirrors.
150. 321.438 Windshields.
151. 321.439 Defective windshield wiper.
152. 321.440 Defective tires.
153. 321.441 Unauthorized use of metal tire or track.
154. 321.442 Unauthorized use of metal projection on wheels.
155. 321.444 Failure to use safety glass.
156. 321.445 Failure to maintain or use safety belts.
157. 321.446 Failure to secure child.
158. 321.449 Special regulations.
159. 321.450 Hazardous materials.
160. 321.454 Width and length violations.
161. 321.455 Excessive side projection of load – passenger vehicle.
162. 321.456 Excessive height.
163. 321.457 Excessive length.
164. 321.458 Excessive projection from front of vehicle.
165. 321.459 Excessive weight – dual axels (each over 2000 lb. over).
166. 321.460 Spilling loads on highways.
167. 321.461 Excessive tow-bar length.
168. 321.462 Failure to use required towing equipment.
169. 321.463 Maximum gross weight.
170. 321.465 Weighing vehicles and removal of excess
171. 321.466 Gross weight in excess of registered gross weight (for each 2000 lb. over).

## TRAFFIC CONTROL DEVICES

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

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

All traffic-control devices shall comply with current standards established by the Manual of Uniform Traffic Control Devices for Streets and Highways.

(Code of Iowa, Sec. 321.255 and 321.256)

3-3-8 CHIEF OF POLICE TO DESIGNATE CROSSWALKS, ESTABLISH, AND MARK TRAFFIC LANES. The Council is hereby authorized:

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

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

## SPEED REGULATIONS

3-3-10 CHANGING STATE SPEED LIMITS IN CERTAIN ZONES. It is hereby determined upon the basis of an engineering and traffic investigation that the speed permitted by State law upon the following streets or portions thereof is greater or less than necessary for the safe operation of vehicles

thereon, and it is declared that the maximum speed limit upon these streets or portions thereof described shall be as follows:

1. Increased Speed The speed limit on East Street at the Con-Way section will be thirty-five (35) miles per hour
2. Decreased Speed The speed limit on Western Avenue from Center Street to Station Street shall be fifteen (15) miles per hour  
(Code of Iowa, Sec. 321.290)

3-3-11 PARKS, CEMETERIES AND PARKING LOTS. A speed in excess of fifteen (15) miles per hour in any public park, cemetery or parking lot, unless specifically designated otherwise in this chapter, is unlawful.

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

3-3-12 MINIMUM SPEED. A person shall not drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

#### TURNING MOVEMENTS

3-3-13 TURNING MARKERS, BUTTONS AND SIGNS. The Council may cause markers, buttons, or signs to be placed within or adjacent to intersections, and thereby require and direct, as traffic conditions require, that a different course from that specified by the State law be traveled by vehicles turning at intersections, and when markers, buttons, or signs are so placed no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by the markers, buttons, or signs, including right-hand turns at intersections with automatic traffic signals.

(Code of Iowa, Sec. 321.311)

3-3-14 AUTHORITY TO PLACE RESTRICTED TURN SIGNS. The City Council is authorized to determine those intersections, as traffic conditions require, at which the drivers of vehicles shall not make a right or left turn. The making of turns may be prohibited between certain hours of any day, in which event the same shall be plainly indicated on signs.

3-3-15 OBEDIENCE TO NO-TURN SIGNS. Whenever authorized signs are erected indicating that no right or left turn is permitted, no driver of a vehicle shall disobey the directions of any such signs.

3-3-16 "U" TURNS. It shall be unlawful for a driver to make a "U" turn except at an intersection. "U" turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals.

3-3-17 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.

## ONE-WAY STREETS AND ALLEYS

3-3-18 **AUTHORITY TO DESIGNATE ONE-WAY STREETS AND ALLEYS.** Whenever any traffic Code of this City designates any one-way street or alley the City Council shall cause to be placed and maintained signs giving notice thereof and the regulation shall not be effective unless the signs are in place. Signs indicating the direction of traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited. It shall be unlawful for any person to operate any vehicle in violation of markings, signs, barriers or other devices placed in accordance with this section.

3-3-19 **RESERVED.**

3-3-20 **AUTHORITY TO RESTRICT DIRECTION OF MOVEMENT ON STREETS DURING CERTAIN PERIODS.** The City Council is authorized to determine and recommend to the Council certain streets, or specified lanes thereon, upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall, upon authority given by Ordinance, place and maintain appropriate markings, signs, barriers, or other devices to give notice thereof. The Chief of Police may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the roadway.

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

## SPECIAL STOPS REQUIRED

3-3-21 **THROUGH HIGHWAYS.** Streets or portions of streets described below are declared to be through highways:

Iowa Highway 168 from County Road to North Street  
(Code of Iowa, Sec. 321.345 and 321.350)

3-3-22 **AUTHORITY TO ERECT STOP SIGNS.** Whenever any Ordinance of this City designates and describes a through highway it shall be the duty of the Chief of Police to cause to be placed and maintained a stop sign on each and every street intersecting through highway except as modified in the case of intersecting through highways.

3-3-23 **STOPS AT INTERSECTING THROUGH HIGHWAYS AND OTHER INTERSECTIONS.** At the intersections of through highways and at intersections upon streets other than through highways, where, because of heavy cross-traffic or other traffic conditions, particular hazard exists, the Chief of Police is hereby authorized to determine whether vehicles shall stop or yield at one or more entrances to the intersection and shall present recommendations to the Council, and, upon approval of the Council, shall erect an appropriate sign at every place where a stop or yield is required.

3-3-24 STOP WHEN TRAFFIC IS OBSTRUCTED. Notwithstanding any traffic-control signal indication to proceed, no driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle.

3-3-25 SCHOOL STOPS. When a vehicle approaches an authorized school stop, the driver shall bring the vehicle to a full stop at a point ten feet from the approach side of the crosswalk marked by an authorized school stop sign, and thereafter proceed in a careful and prudent manner until the driver shall have passed such school site. The following is a designated school crossing zone:

Western Avenue at a point in front of the school building

3-3-26 STOP BEFORE CROSSING SIDEWALK. The driver of a vehicle emerging from a private roadway, alley, driveway, or building shall stop such vehicle immediately prior to driving onto the sidewalk area and thereafter shall proceed into the sidewalk area only when able to do so without danger to pedestrian traffic and shall yield the right-of-way to any vehicular traffic on the street into which the vehicle is entering.

3-3-27 YIELD TO PEDESTRIANS IN CROSSWALKS. Where traffic control signals are not in place or in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping, if need be, to yield to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection.

3-3-28 STOP AND YIELD REQUIRED.

1. Every driver of a vehicle shall stop in accordance with the following:
  - a. Vehicles traveling on Eastern Avenue shall stop at County Road
  - b. Vehicles traveling south on Summit Street shall stop at County Road
  - c. Vehicles traveling south on Davenport Street shall stop at County Road
  - d. Vehicles traveling south on East Street shall stop at Spring Street
  - e. Vehicles traveling west on Spring Street shall stop at East Street
  - f. Vehicles coming from the south, east and north shall stop at the intersection of Center Street and Western Avenue
2. Every driver of a vehicle shall yield in accordance with the following:
  - a. Vehicles traveling on Summit Street shall yield at Center Street
  - b. Vehicles traveling on Davenport Street shall yield at Center Street
  - c. Vehicles traveling on West Street shall yield at Center Street
  - d. Vehicles traveling on Des Moines Street shall yield at Center Street
  - e. Vehicles traveling on Plateau Street shall yield at Center Street
  - f. Vehicles traveling south on Eastern Avenue shall yield at Center Street
  - g. Vehicles traveling north on Summit Street shall yield at Spring Street
  - h. Vehicles traveling on Des Moines Street shall yield at Spring Street
  - i. Vehicles traveling on Plateau Street shall yield at Spring Street
  - j. Vehicles traveling on Spring Street shall yield at Western Avenue
  - k. Vehicles traveling on Station Street shall yield at Western Avenue
  - l. Vehicles traveling on Des Moines Street shall yield at Western Avenue

m. Vehicles traveling on Davenport Street shall yield at Station Street

## PEDESTRIANS' RIGHTS AND DUTIES

3-3-29 PROHIBITED CROSSING. Pedestrians crossing a street in the business district shall cross in the crosswalks only. 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. 321.327)

3-3-30 PEDESTRIANS ON LEFT. Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. Where sidewalks are not provided pedestrians at all times when walking on or along a roadway, shall walk on the left side of the roadway.

(Code of Iowa, Sec. 321.326)

3-3-31 HITCHHIKING. No person shall stand in the traveled portion of a street for the purpose of soliciting a ride from the driver of any private vehicle.

## METHOD OF PARKING

3-3-32 STANDING OR PARKING CLOSE TO CURB. No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the right-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as provided in the case of angle parking and vehicles parked on the left-hand side of one-way streets.

(Code of Iowa, Sec. 321.361)

3-3-33 STANDING OR PARKING ON THE LEFT-HAND SIDE OF ONE-WAY STREETS. No person shall stand or park a vehicle on the left-hand side of a one-way street other than parallel with the edge of the roadway headed in the direction of lawful traffic movement and with the left-hand wheels of the vehicle within eighteen inches of the curb or edge of the roadway except as provided in the case of angle parking.

(Code of Iowa, Sec. 321.361)

3-3-34 SIGNS OR MARKINGS INDICATING ANGLE PARKING. The Chief of Police, as traffic conditions require, shall determine upon what streets angle parking shall be permitted and shall mark or sign the streets or portions thereof indicating the method of angle parking. The determination shall be subject to approval by Council resolution. Angle or diagonal parking is permitted only in the following locations:

East Streets, both sides, from Station Street to Spring Street

(Code of Iowa, Sec. 321.361)

3-3-35 OBEDIENCE TO ANGLE PARKING SIGNS OR MARKINGS. Upon those streets or portions of streets that have been signed or marked for angle parking, no person shall park or stand a vehicle other than at an angle to the curb or edge of the roadway or in the center of the roadway as indicated by the signs and markings. 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)

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

3-3-36 STOPPING, STANDING, OR PARKING PROHIBITED IN SPECIFIED PLACES. No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control device, in any of the following places:

(Code of Iowa, Sec. 321.358)

1. On a sidewalk.
2. In front of a public or private driveway.
3. Within or within ten (10) feet of an intersection.
4. Within five (5) feet of either side of the point on the curb nearest to a fire hydrant.
5. On a crosswalk.
6. Within ten (10) feet upon the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of the roadway.
7. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
8. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly signposted.
9. Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic.
10. On the roadway side of any vehicle stopped or parked at the edge or curb of street.
11. Opposite the entrance to a garage or driveway in such a manner or under such conditions as to leave available less than twenty (20) feet of the width of the roadway for the free movement of vehicular traffic.

12. Upon any street or in any alley in any part of the City in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway of such street or alley for the free movement of vehicular traffic, except when necessary in obedience to traffic regulations or traffic signs, or signals of a police officer. No person shall stop, stand, or park a vehicle within an alley in such a position as to block the driveway entrance to any abutting property. The provisions of this subsection shall not apply to a vehicle parked in any alley which is eighteen (18) feet wide or less: provided said vehicle is parked to deliver goods or services.
13. At any place where official signs or curb markings prohibit stopping, standing or parking.
14. Within ten (10) feet of the crosswalk at all intersections within the City.
15. In an alley under any fire escape at any time.
16. On the center parkway or dividing area of any divided street.
17. 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.
18. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theater, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.
19. 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])
20. That area of the public way not covered by sidewalk and lying between the lot line and the curb line, where curbing has been installed.
21. In any designated parking space so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such space.

**3-3-37 AUTHORITY TO PAINT CURBS AND ERECT SIGNS PROHIBITING STANDING OR PARKING.** When, because of restricted visibility or when standing or parked vehicles constitute a hazard to moving traffic, or when other traffic conditions require, the City Council may cause curbings to be painted with a yellow or orange color and erect "no parking" or "standing" signs. It shall be unlawful for the operator of any vehicle to stand or park a vehicle in an area so painted or

sign-posted. It shall be unlawful for any person, other than after having first secured the permission of the Chief of Police, to paint any curbing, sidewalk or street with yellow or orange colored paint or to erect "no parking" signs.

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

**3-3-38 AUTHORITY TO IMPOUND VEHICLES.** Members of the police department are authorized to remove, or cause to be removed, a vehicle from a street, public alley, or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the City, under the following circumstances:

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

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

#### STOPPING, STANDING OR PARKING

**3-3-39 PARKING SIGNS REQUIRED.** Whenever by this or any other chapter of this City Code any parking time limit is imposed or parking is prohibited on designated streets or portions of streets it shall be the duty of the Police Chief to erect appropriate signs giving notice thereof and the regulations shall not be effective unless signs are erected and in place at the time of any alleged offense. When signs are erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, Sec. 321.236)

**3-3-40 PARKING DURING SNOW EMERGENCY.** No person shall park, abandon, or leave unattended any vehicle on any public street, alley, or City-owned off-street parking area during 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. A snow emergency parking ban shall continue from its proclamation through the duration of the snow or ice storm and the forty-eight hour period after cessation of the storm except as above provided upon streets which have been fully opened.

The ban shall be of uniform application and the Chief of Police is directed to publicize the requirements widely, using all available news media, in early November each year. When predictions or occurrences indicate the need, the Mayor shall proclaim a snow emergency and the Police Chief shall inform the news media to publicize the proclamation and the parking rules under the emergency. Such emergency may be extended or shortened when conditions warrant.

(Code of Iowa, Sec. 321.236)

**3-3-41 ALL-NIGHT PARKING PROHIBITED.** No person, except physicians or other persons on emergency calls, shall park a vehicle on any street marked to prohibit all night parking and giving notice thereof, for a period of time longer than thirty minutes between the hours of 2 a.m. and 5 a.m. of any day.

**3-3-42 TRUCK PARKING LIMITED.** No person shall park a motor truck, semi-trailer, or other motor vehicle with trailer attached in violation of the following regulations. The provisions of this section shall not apply to pickup, light delivery or panel delivery trucks.

1. No such vehicle shall be left unattended or parked upon any street within the City for a period of time longer than one (1) hour at any time.
2. 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.

**3-3-43 NO PARKING ZONES.** No one shall stop, stand or park a vehicle in any of the following specifically designated no parking zones except when necessary to avoid conflict with other traffic or in compliance with the direction of a peace officer or traffic control signal.

**3-3-44 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.
  - a. Use by an operator of a vehicle not displaying a persons with disabilities parking permit
  - b. Use by an operator of a vehicle displaying a persons with disabilities parking permit but not being used by a person issued a permit or being transported in accordance with Section 321L.2[1b] of the Code of Iowa

- c. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa
3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:
  - a. A person issued a persons with disabilities parking permit must comply with the requirement 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.

## MISCELLANEOUS DRIVING RULES

3-3-45 VEHICLES NOT TO BE DRIVEN ON SIDEWALKS. The driver of a vehicle shall not drive upon or within any sidewalk area.

3-3-46 CLINGING TO VEHICLES. No person shall drive a motor vehicle on the streets of this City unless all passengers of the vehicle are inside the vehicle in the place intended for their accommodation. No person shall ride on the running board of a motor vehicle or in any other place not customarily used for carrying passengers. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.

3-3-47 PARKING FOR CERTAIN PURPOSES PROHIBITED. No person shall park a vehicle upon the roadway for the principal purpose of:

1. Displaying such vehicle for sale.
2. Displaying advertising.
3. Selling merchandise from the vehicle except in a duly established market place or when so authorized or licensed under the Ordinances of this City.
4. Storage or as junk or dead storage for more than forty-eight hours.
5. For lubricating, repairing or for commercial washing of such vehicle except such repairs as necessitated by an emergency.

3-3-48 DRIVING THROUGH FUNERAL OR OTHER PROCESSION. No driver of any vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when the vehicles are conspicuously designated as required in this chapter. This

provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

3-3-49 DRIVERS IN A PROCESSION. Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

3-3-50 FUNERAL PROCESSIONS TO BE IDENTIFIED. A funeral procession composed of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the police department.

3-3-51 LOAD RESTRICTIONS UPON VEHICLES USING CERTAIN STREETS. When signs are erected giving notice thereof, no person shall operate any vehicle licensed in excess of the amounts specified on the signs at any time upon any of the following streets within the City and none other.

3-3-52 LOAD LIMITS ON BRIDGES. Where it has been determined that any City bridge has a capacity less than the maximum permitted on the streets of the City, or on the street serving the bridge, the Council may cause to be posted and maintained signs, in accordance with Section 3-3-7 of this Traffic Code, on said bridge and at suitable distances ahead of the entrances thereof to warn drivers of such maximum load limits, and no person shall drive a vehicle weighing, loaded or unloaded, upon said bridge in excess of such posted limit.

(Code of Iowa, Sec. 321.471)

3-3-53 PERMITS FOR EXCESS SIZE AND WEIGHT. The Council may, upon application and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination vehicles of a size or weight or load exceeding the maximum specified by State law or the City over those streets or bridges named in the permit which are under the jurisdiction of the City and for which the City is responsible for maintenance.

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

3-3-54 TEMPORARY EMBARGO. If the Council declares an embargo when it appears by reason of deterioration, rain, snow or other climatic conditions that certain streets will be seriously damaged or destroyed by vehicles weighing in excess of an amount specified by the signs, no such vehicles shall be operated on streets so designated by such signs erected in accordance with Section 3-3-7 of this Traffic Code.

3-3-55 RESERVED

3-3-56 VEHICULAR NOISE.

1. It shall be unlawful for any person to make, continue or cause any disturbing, excessive or offensive noise which results in discomfort or annoyance to any reasonable person of normal

sensitivity by means of radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in a motor vehicle.

2. The operation of any radio, compact disk player, stereo, speakers, cassette tape player or similar sound device in such a manner so as to be audible at a distance of two hundred (200') from the motor vehicle shall constitute evidence of a prima facie violation of this section.
3. 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.

### 3-3-57 ENGINE AND COMPRESSION BRAKES.

1. It shall be unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City, any engine brake, compression brake or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in excessive, loud, unusual or explosive noise from such vehicle.
2. The usage of an engine brake, compression brake or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of three hundred feet (300') from the motor vehicle shall constitute evidence of a prima facie violation of this section.

3-3-58 PARADES REGULATED. No person shall conduct or cause any parade on any street except as provided herein:

1. "Parade" means any march or procession of persons or vehicles organized for marching or moving on the streets in an organized fashion or manner or any march or procession of persons or vehicles represented or advertised to the public as a parade.
2. No parade shall be conducted without first obtaining approval from the Council. The person organizing or sponsoring the parade shall provide information concerning the time and date for the parade and the streets or general route therefor, and any approval given to such person includes all participants in the parade, provided they have been invited to participate.
3. Any parade for which approval has been given and the persons lawfully participating therein shall not be deemed an obstruction of the streets, notwithstanding the provisions of any other ordinance to the contrary.
4. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

3-3-59 RECKLESS DRIVING. No person shall drive any vehicle in such manner as to indicate a willful or a wanton disregard for the safety of persons or property.

3-3-60 CARELESS DRIVING. No person shall intentionally operate a motor vehicle on a street or highway in any one of the following ways:

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

## BICYCLE REGULATIONS

3-3-61 DEFINITIONS. For the purpose of this Chapter the following terms are defined:

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

(Code of Iowa, Sec. 321.1)

3-3-62 TRAFFIC CODE APPLIES TO PERSONS RIDING BICYCLES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to drivers of vehicles by the laws of this State regarding rules of the road applicable to vehicles or by the traffic Ordinances of this City applicable to drivers of vehicles, except as to those provisions which by their nature can have no application. Whenever a person dismounts from a bicycle such person shall be subject to all regulations applicable to pedestrians.

3-3-63 RIDING ON BICYCLES. A person propelling a bicycle shall not ride other than astride a permanent and regular seat.

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

**3-3-64 RIDING ON ROADWAYS AND BICYCLE PATHS.** Every person operating a bicycle upon a roadway shall ride as near to the right-hand side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.

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

**3-3-65 SPEED.** No person shall operate a bicycle at a speed greater than is reasonable and prudent under existing conditions.

**3-3-66 EMERGING FROM ALLEY OR DRIVEWAY.** The operators of a bicycle emerging from an alley, driveway, or building shall, upon approaching a sidewalk or the sidewalk area extending across any alleyway, yield the right of way to all pedestrians approaching on the sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadway.

**3-3-67 CARRYING ARTICLES.** No person operating a bicycle shall carry any package, bundle, or article which prevents the rider from keeping at least one hand upon the handle bars.

**3-3-68 PARKING.** Bicycles shall be parked upon the roadway of a street against the curb, or upon the sidewalk in a rack to support bicycles, or against a building, or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

**3-3-69 RIDING ON SIDEWALKS.** No person shall ride a bicycle on a sidewalk within a business district.

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

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

**3-3-70 LAMPS AND OTHER EQUIPMENT ON BICYCLES.** Every bicycle when in use at nighttime shall be equipped with a lamp on the front that emits a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type that is visible from all distances from 50 feet to 300 feet to the rear when directly in front of lawful upper beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of 500 feet to the rear may be used in addition to the red reflector.

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

## SNOWMOBILES

### 3-3-71 SNOWMOBILE DEFINITIONS.

1. "Snowmobile" means a self-propelled vehicle designed for travel on snow or ice in a natural terrain steered by wheels, skis or runners.
2. "Operate" means to control the operation of a snowmobile.
3. "Operator" means a person who operates or is in actual control of a snowmobile.

### 3-3-72 PERMITTED AREAS OF OPERATION. Snowmobiles will be allowed to operate in the City as follows:

1. Streets. Snowmobiles shall be operated only upon street which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.
2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances
  - a. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.
  - b. Snowmobiles may make a direct crossing of a prohibited street provided
    - 1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where not obstruction prevents a quick and safe crossing
    - 2) The snowmobile is brought to a complete stop before crossing the street
    - 3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and
    - 4) In crossing a divided street, the crossing made only at an intersection of such street with another street

The route established herein shall be the only permitted snowmobile route and the snowmobiles shall be operated within the roadways of said public streets and shall also be subject to the following regulations.

### 3-3-73 REGULATIONS. It shall be unlawful for any person to operate a snowmobile under the following circumstances:

1. On private property of another without the express permission to do so by the owner or occupant of said property.

2. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority. A snowmobile may not be operated on any City land without a snow cover of at least one-tenth of one inch.
3. On the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking" except for purposes of crossing the same to public street upon which operation is authorized by Section 3-3-67.
4. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
5. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.
6. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.
7. On an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.
8. On all-terrain vehicle trails except where so designated.
9. No person shall operate a snowmobile in the City from eleven o'clock (11:00) p.m. to ten o'clock (10:00) a.m., except for the purpose of loading and unloading a snowmobile from another vehicle or trailer.

3-3-74 EQUIPMENT REQUIRED. All snowmobiles operated within the City shall have the following equipment:

1. Mufflers which are properly attached and which reduce the noise of operation of the vehicle to the minimum noise necessary for operating the vehicle and no person shall use a muffler cut-out, by-pass or similar device on said vehicle.
2. Adequate brakes in good operating condition and at least one headlight and one taillight in good operating condition.
3. A safety or so-called "dead-man" throttle in operating condition; a safety or "dead-man" throttle is defined as a device which when pressure is removed from the accelerator or throttle causes the motor to be disengaged from the driving track.

3-3-75 UNATTENDED VEHICLES. It is unlawful for the owner or operator to leave or allow a snowmobile to be or remain unattended on public property while the motor is running or the key left in the ignition.

3-3-76 RESTRICTION OF OPERATION. The City Council may, by resolution, prohibit the operation of snowmobiles within the right-of-way of the public roads, streets or alley or other City property within the City when the public safety and welfare so requires.

3-3-77 TRAFFIC REGULATION. Each person operating a snowmobile shall strictly observe all traffic signs and signals and all other traffic rules and regulations applicable thereto, and shall obey the orders and directions of any police officer of the City authorized to direct or regulate traffic.

3-3-78 NEGLIGENCE. The owner and operator of a snowmobile are liable for any injury or damage occasioned by the negligent operation of the snowmobile. The owner of a snowmobile shall be liable for any such injury or damage only if the owner was the operator of the snowmobile at the time the injury or damage occurred or if the operator had the owner's consent to operate the snowmobile at the time the injury or damage occurred.

3-3-79 ACCIDENT REPORTS. Whenever a snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to two hundred dollars (\$200) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement office and shall file an accident report within forty-eight (48) hours, in accordance with State law.  
(Code of Iowa, Sec. 321G.10)

## OFF-ROAD VEHICLES

3-3-80 DEFINITIONS. For use in this Chapter the following terms are defined:

1. "All-terrain vehicle" (ATV) means a motor vehicle designed to travel on three or more wheels and designed primarily for off- road recreational use. "All-terrain vehicle" includes off road-utility vehicles as defined in section 321I.1. but not including farm tractors or equipment, construction equipment, forestry vehicles, or lawn and grounds maintenance vehicles.

(Code of Iowa, Section 321.1)

Off-road motorcycles shall be considered all-terrain vehicles for the purpose of registration. Off-road motorcycles shall also be considered all-terrain vehicles for the purpose of titling if a title has not previously been issued pursuant to Chapter 321. An operator of an off-road motorcycle is subject to provisions governing the operation of all-terrain vehicles in this Chapter, but is exempt from the safety instruction and certification program requirements of Sections 321I.25 and 321I.26.

2. "Off-road motorcycle" means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the

manufacturer for use on natural terrain. “Off-road motorcycle” includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321, but which contains design features that enable operation over natural terrain.

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

### 3-3-81 OPERATION OF OFF ROAD VEHICLES.

The operation of ATV or off road vehicles shall comply with the following restrictions:

1. Streets. Off road vehicles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.
2. Exceptions. Off road vehicles may be operated on prohibited streets only under the following circumstances
  - a. Off road vehicles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.
  - b. Off road vehicles may make a direct crossing of a prohibited street provided
    - 1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where not obstruction prevents a quick and safe crossing
    - 2) The off road vehicle brought to a complete stop before crossing the street
    - 3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and
    - 4) In crossing a divided street, the crossing made only at an intersection of such street with another street

1. Time of Operation. Shall only be operated between sunrise and sunset.
2. Compliance with State Code. All Operations shall comply with Iowa Code Chapter 321I

3-3-82 PROHIBITED OPERATIONS. It shall be unlawful for any person to operate an off road vehicle under the following circumstances

1. On public school grounds, park property, playgrounds, recreational areas and golf courses without express permission to do so by the proper public authority.
2. On the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “parking” except for purposes of crossing the same to public street upon which operation is authorized by Section 3-3-67.
3. In a manner so as to create loud, unnecessary or unusual noise so as to disturb or interfere with the peace and quiet of other persons.
4. In a careless, reckless or negligent manner so as to endanger the safety of any person or property of any other person.
5. Without having such snowmobile registered as provided for by Iowa Statute except that this provision shall not apply to the operation of a snowmobile on the private property of the owner by the owner or a member of his immediate family.
6. On an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.
7. On snowmobile trails vehicle trails except where so designated
8. Between the hours of sunset and sunrise

3-3-83 NEGLIGENCE. The owner and operator of a snowmobile are liable for any injury or damage occasioned by the negligent operation of the snowmobile. The owner of a snowmobile shall be liable for any such injury or damage only if the owner was the operator of the snowmobile at the time the injury or damage occurred or if the operator had the owner’s consent to operate the snowmobile at the time the injury or damage occurred.

3-3-84 ACCIDENT REPORTS. Whenever an ATV, off-road motorcycle, or off-road utility vehicle is involved in an accident resulting in injury or death to anyone or property damage amounting to one thousand dollars (\$1,000.00) or more, either the operator or someone acting for the operator shall immediately notify a law enforcement officer and shall file an accident report, in accordance with State law.

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

## GOLF CARTS

3-3-85 DEFINITIONS. For use in this ordinance “golf cart” is defined as a motorized 4-wheeled vehicle designed to transport person(s) on a golf course.

3-3-86 OPERATION OF GOLF CARTS. Golf carts may be operated on City streets by persons possessing a valid driver’s license provided that a special permit is obtained from the City Council. The application for a permit shall set forth that the applicant meets the requirements of this section, the proposed routes of the applicant, and a compelling need for issuance of the permit. The City Council may impose restrictions and conditions in addition to those set forth in this section and may deny an application when a compelling need for the permit is not demonstrated. A golf cart shall not be operated upon a City street which is a primary road extension, i.e., State or Federal highway, but shall be allowed to cross a City street which is a primary road extension through the City. The golf cart shall be equipped with adequate brakes, a slow-moving vehicle sign, and a bicycle safety flag. The golf cart shall be operated only on the streets from sunrise to sunset. Golf carts operated on City streets need not be registered under Chapter 321 of the Code of Iowa

#### PENALTIES AND PROCEDURE

3-3-87 ARREST OR CITATION. Whenever a police officer has reasonable cause to believe that a person has violated any provision of the Traffic Code, such officer may:

1. Immediately arrest such person and take such person before a local magistrate, or
2. 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

3-3-88 NOTICE OF FINE PLACED ON ILLEGALLY PARKED VEHICLE. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by any Ordinance of this City or State law, the officer finding such vehicle shall prepare a notice of parking fine giving the registration number, and other identifying information to such vehicle in a conspicuous place and directing the driver of the vehicle to appear within thirty days, or to pay the local scheduled fine.

3-3-89 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING. In any prosecution charging a violation of any parking Ordinance or State law governing the standing, stopping, or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such Ordinance or law, together with proof that the defendant named in the complaint was at the time of such parking violation the registered owner of such vehicle, shall constitute prima facie evidence that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which such violation occurred.

3-3-90 LOCAL PARKING FINES. Scheduled fines as follows are established, payable by mail or in person at the City Clerk's office within thirty days of the violation, for the following parking violations:

		Penalty After 30 Days
1. Overtime parking	\$5.00	\$10.00
2. Prohibited parking	\$5.00	\$10.00
3. No parking zone	\$5.00	\$10.00
4. Blocking alley	\$5.00	\$10.00
5. Illegal parking	\$5.00	\$10.00
6. Street cleaning	\$5.00	\$10.00
7. Snow removal ban	\$5.00	\$10.00
8. Persons with disabilities parking	\$ 100.00	\$100.00

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

**3-3-91 FAILURE TO PAY PARKING CITATIONS.** If a violator of the restrictions on stopping, standing, or parking under the parking Ordinances of this City or of State law fails to make payment of the scheduled fine as specified on a parking citation affixed to such motor vehicle within the thirty (30) days, the City shall send the owner of the motor vehicle to which the parking citation was affixed a letter informing the owner of the violation and warning that in the event the penalty is not paid within five days from date of mailing, a court citation will be issued requiring a court appearance and subjecting the violator to court costs.

**3-3-92 TAMPERING WITH VEHICLE.** It is unlawful for any person, either individually or in association with one or more other persons, willfully to injure or tamper with any vehicle or break or remove any part or parts of or from a vehicle without the consent of the owner.

**3-3-93 OBSTRUCING VIEW AT INTERSECTIONS.** It is unlawful to allow any tree, hedge, bill board or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such obstruction is deemed a nuisance in addition to the standard penalty may be abated in the manner provided by Section 3-2 of this Code of Ordinances.

**TITLE III COMMUNITY PROTECTION**

**CHAPTER 4 RESERVED**

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 5 FIRE PROTECTION**

3-5-1 Establishment and Purpose	3-5-5 Liability Insurance
3-5-2 Volunteer Fire Fighters	3-5-6 Fires Outside City Limits
3-5-3 Fire Fighter's Duties	3-5-7 Compensation
3-5-4 Worker's Compensation and Hospitalization Insurance	3-5-8 Election of Officers
	3-5-9 Constitution

3-5-1 ESTABLISHMENT AND PURPOSE. A volunteer fire department is hereby established to prevent and extinguish fires and to protect lives and property against fires, to promote fire prevention and fire safety, and to answer all emergency calls for which there is no other established agency.  
(Code of Iowa, Sec. 364.16)

3-5-2 VOLUNTEER FIRE FIGHTERS. Twenty-five residents of Shelby, Iowa, at least age eighteen (18) shall be appointed to serve as a volunteer fire fighter. Prior to appointment as a volunteer fire fighter and every four years thereafter a volunteer fire fighter must pass a medical physical examination. No person having otherwise qualified shall be appointed to the department until such appointment is submitted to and approved by a majority of the Council members.  
(Code of Iowa, Sec. 362.10)

3-5-3 FIRE FIGHTER'S DUTIES. When called by the Fire Chief, all fire fighters shall report for duty immediately in the manner directed by the Fire Chief. All fire fighters shall be subject to call at any time. Fire Fighters shall obey strictly the commands of any other fire fighter who has been appointed by the Fire Chief to be in command temporarily. Fire fighters shall report for training as ordered by the Fire Chief. All members of the department shall attend and actively participate in regular or special training drills or programs as directed by the Chief.  
(Code of Iowa, Sec. 372.13(4))

3-5-4 WORKER'S COMPENSATION AND HOSPITALIZATION INSURANCE. The City Council shall contract to insure the City against liability for worker's compensation and against statutory liability for the costs of hospitalization, nursing, and medical attention for volunteer fire fighters injured in the performance of their duties as fire fighters whether within or outside the corporate limits of the City. All volunteer fire fighters shall be covered by the contract.

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

3-5-6 FIRES OUTSIDE CITY LIMITS. The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.  
(Code of Iowa, Sec. 364.16)

3-5-7 COMPENSATION. Members of the department shall be designated by rank and receive such compensation as shall be determined by resolution of the Council.

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

3-5-8 ELECTION OF OFFICERS. The department shall elect a Fire Chief and such other officers as its constitution and bylaws may provide, but the election of Fire Chief shall be subject to the approval of the Council. In case of absence of the Fire Chief, the officer next in rank shall be in charge and have and exercise all the powers of Fire Chief.

3-5-9 CONSTITUTION. The department shall adopt a constitution and bylaws as they deem calculated to accomplish the object contemplated, and such constitution and bylaws and any change or amendment to such constitution and bylaws before being effective, must be approved by the Council.

3-5-10 MUTUAL AID. Subject to approval by resolution of the Council, the department may enter into mutual aid agreements with other legally constituted fire departments. Copies of any such agreements shall be filed with the Clerk.

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

3-5-11 AUTHORITY TO CITE VIOLATIONS. Fire officials acting under the authority of Chapter 100 of the Code of Iowa may issue citations in accordance to Chapter 805 of the Code of Iowa, for violations of State and/or local fire safety regulations.

(Code of Iowa, Sec. 100.41)

3-5-12 EMERGENCY AMBULANCE SERVICE. The department is authorized to provide emergency ambulance or rescue services and the accidental injury and liability insurance provided for herein shall include such operation.

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 6 CURFEW FOR MINORS**

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

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

(Code of Iowa, Sec. 364.1)

3-6-2 FINDINGS AND PURPOSE. The City Council has determined that there has been an increase in juvenile violence and crime by persons under the age of 17 in the City of Shelby; and

Persons under the age of 17 are particularly susceptible by their lack of maturity and experience to participate in unlawful and gang-related activities and to be victims of older perpetrators of crime; and

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

3-6-3 DEFINITIONS. In this chapter:

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

4. Guardian means:
  - c. A person who, under court order, is the guardian of the person of a minor; or
  - b. A public or private agency with whom a minor has been placed by a court.
5. Minor means any person under age 17 years of age.
6. Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.
7. Parent means a person who is:
  - a. A biological parent, adoptive parent, or step-parent of another person; or
  - b. At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.
4. Public place means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.
5. Remain means to:
  - a. Linger or stay; or
  - b. Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.
6. Serious Bodily Injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss of impairment of the function of any bodily member or organ.

#### 3-6-4 OFFENSES.

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

3. The owner, operator, or any employee of an establishment commits an offense if they knowingly allow a minor to remain upon the premises of the establishment during curfew hours.

### 3-6-5 DEFENSES.

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

### 3-6-6 ENFORCEMENT.

1. Before taking any enforcement action under this section, a police officer shall ask the apparent offender's age and reason for being in the public place. The officer shall not issue a

citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in Section 3-6-5 is present.

2. A minor who is in violation of this Ordinance shall be reunited with the minor's parent or guardian or custodian or other adult taking the place of the parent or shall be taken home by the police officers of the City of Shelby.

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

## TITLE III COMMUNITY PROTECTION

### CHAPTER 7 REGULATING PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

3-7-1	Definitions	3-7-7	Bond Required
3-7-2	Exemptions	3-7-8	Obstruction of Pedestrian or Vehicular Traffic
3-7-3	Permits	3-7-9	Display of Permit
3-7-4	Requirements	3-7-10	Permit Not Transferable
3-7-5	Hours of Solicitation	3-7-11	Revocation of Permit
3-7-6	Consumer Protection Law		

3-7-1 DEFINITIONS. For use in this chapter, the following terms are defined as follows:

1. A "peddler" is any person carrying or transporting goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.
2. A "solicitor" is any person who solicits or attempts to solicit from house-to-house or upon public streets orders for commercial goods, wares, subscriptions, publications, periodicals, merchandise, or services to be delivered or fulfilled at a future date.

For the purposes of this chapter, "solicitor" does not include a person who contacts another person at such person's residence without prior invitation to enlist support for or against, or solicit funds for patriotic, philanthropic, charitable, political, or religious purposes, whether or not there is an incidental purpose involving the sale of some goods or service.

3. A "transient merchant" includes every merchant, whether an individual person, a firm, corporation, partnership, or association, who brings or causes to be brought within the municipality any goods, wares, or merchandise of any kind, nature, or description, with the intention of temporarily or intermittently selling or offering to sell at retail such goods, wares, or merchandise. Temporary association with a local merchant, dealer, trader, or auctioneer, for conducting such transient business in connection with, as part of, or in the name of any local merchant, dealer, trader, or auctioneer, does not exempt any such person, firm, or corporation from being considered a transient merchant.

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

3-7-2 EXEMPTIONS. The provisions of this chapter shall not apply to nonprofit civic, charitable, religious, or educational groups engaged in retail sale for the purposes of fund raising.

3-7-3 PERMITS. Before any person or organization engages in any of the practices defined herein, they must comply with all applicable Ordinances, and must also obtain from the City Clerk a permit in accordance with the provisions of sections 3-7-4 and 3-7-5. This permit shall extend no longer than sixty days. A fee of \$5.00 shall be paid at the time of registration to cover the cost of investigation and issuance.

(Code of Iowa, Sec. 9C.2)

3-7-4 REQUIREMENTS. Any applicant engaged in any activity described in 3-7-1 of this chapter must file with the City Clerk an application in writing that gives the following information:

1. Name and social security number.
2. Permanent and local addresses and, in case of transient merchants, the local address from which proposed sales will be made.
3. A brief description of the nature of the sales method.
4. Name and address of the firm for or on whose behalf the orders are solicited, or the supplier of the goods offered for sale.
5. Length of time for which the permit is desired.
6. A statement as to whether or not the applicant has been convicted of any crime, and if so, the date, the nature of the offense, and the name of the court imposing the penalty.
7. Motor vehicle make, model, year, color, and registration number, if a vehicle is to be used in the proposed solicitation.

3-7-5 HOURS OF SOLICITATION. No person may conduct those activities described in Section 3-7-1 except between the hours of 9:00 a.m. and 6:00 p.m. on each day, and no solicitation shall be done on Sundays or legal holidays.

3-7-6 CONSUMER PROTECTION LAW. All solicitors and peddlers shall be informed of, agree to comply with, and comply with the State law, Section 555A.3, Code of Iowa, requiring a notice of cancellation to be given in duplicate, properly filled out, to each buyer to whom such person sells a product or service and, comply with the other requirements of the law.

3-7-7 BOND REQUIRED. Before a permit under this chapter is issued, each person subject to this Ordinance shall post with the Clerk, a bond, by a surety company authorized to insure the fidelity of others in Iowa, in the amount of \$1,000 to the effect that the registrant and the surety consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: (1) to indemnify the City for any penalties or costs occasioned by the enforcement of this chapter, and (2) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out

of or in connection with the registrant's peddling or solicitation. The bond shall not be retired until one year from the expiration of the permit.

**3-7-8 OBSTRUCTION OF PEDESTRIAN OR VEHICULAR TRAFFIC.** No person, while engaged in any of the practices described in Section 3-7-1, shall block or obstruct the path of any pedestrian or vehicular traffic, or block or obstruct any way of ingress or egress to roads, buildings, or other enclosures or conveyances, including, but not limited to, vehicles, elevators, and escalators.

**3-7-9 DISPLAY OF PERMIT.** Each solicitor or peddler shall at all times while doing business in this City keep in his or her possession the permit provided for in Section 3-7-3 of this Chapter, and shall, upon the request of prospective customers, exhibit the permit as evidence that he or she has complied with all requirements of this Chapter. Each transient merchant shall display publicly the permit in his or her place of business.

**3-7-10 PERMIT NOT TRANSFERABLE.** Permits issued under the provisions of this Chapter are not transferable in any situation and are to be applicable only to the person filing the application.

**3-7-11 REVOCATION OF PERMIT.** The City Council after notice and hearing, may revoke any permit issued under this Ordinance where the permittee in the application for the permit or in the course of conducting his or her business has made fraudulent or incorrect statements or has violated this Ordinance or has otherwise conducted business in an unlawful manner.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 8 CIGARETTE LICENSE

3-8-1	Definitions	3-8-6	Refunds
3-8-2	Permit Required	3-8-7	Suspension; Revocation; Civil Penalty
3-8-3	Issuance	3-8-8	Permits not Transferable
3-8-4	Expiration	3-8-9	Display
3-8-5	Fees		

3-8-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. "Cigarette" means any roll for smoking made wholly or in part of tobacco or any substitute for tobacco, irrespective of size or shape and irrespective of tobacco or any substitute for tobacco being flavored, adulterated, or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. However, this definition shall not be construed to include cigars.

(Code of Iowa, Sec. 453A.1(2))

2. "Retailer" means and includes every person in this State who sells, distributes, or offers for sale for consumption, or possess for the purpose of sale for consumption, cigarettes irrespective of quality or amount or the number of sales.

(Code of Iowa, Sec. 453A.1(19))

3. "Place of business" means and includes 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(17))

3-8-2 PERMIT REQUIRED. No retailer shall distribute, sell, or solicit the sale of any cigarettes within the City of Shelby, Iowa, without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public.

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

3-8-3 ISSUANCE. The City Council shall issue or renew a permit, upon a determination that such issuance or renewal will not be detrimental to the public health, safety, or morals, when a retailer who is not a minor has filed with the City Clerk a completed application on forms provided by the State Department of Revenue and Finance and accompanied by the fee provided in Section 3-8-5. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13(2)(a))

3-8-4 EXPIRATION. Permits expire on June 30 of each year.  
(Code of Iowa, Sec. 453A.13(3))

3-8-5 FEES. The fee for permits issued or renewed in July, August, or September is \$75.00. The fee for permits issued in October, November, or December is \$56.25; in January, February or March, \$37.50; and in April, May or June, \$18.75.  
(Code of Iowa, Sec. 453A.13(3))

3-8-6 REFUNDS. A retailer may surrender an unrevoked permit in July, August, or September for a refund of \$56.25; in October, November, or December, for \$37.50; or in January, February, or March, for \$18.75.  
(Code of Iowa, Sec. 453A.13(4))

3-8-7 SUSPENSION; REVOCATION; CIVIL PENALTY.

1. If a retailer or employee of a retailer has violated Section 453A.2, 453A.36, subsection 6 or 453A.39, Code of Iowa, the City Council, in addition to the other penalties fixed for such violations in this section, shall assess a penalty after giving the permit holder an opportunity to be heard, upon ten (10) days written notice, stating the reasons for the contemplated action and the time and place at which the person may appear and be heard, as follows:
  - a. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars (\$300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.
  - b. For a second violation within a period of two (2) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this paragraph.
  - c. For a third violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of thirty (30) days.
  - d. For a fourth violation within a period of three (3) years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars (\$1,500.00) and the retailer's permit shall be suspended for a period of sixty (60) days.
  - e. For a fifth violation within a period of four (4) years, the retailer's permit shall be revoked.
  - f. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the employee holds a valid

certificate of completion of the tobacco compliance employee training program pursuant to section 453A.2A at the time of the violation. A retailer may assert only once in a four (4) year period the bar under either this subsection or subsection 4 against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.

- g. If an employee of a retailer violates section 453A.2, subsection 1, the retailer shall not be assessed a penalty under subsection 2, and the violation shall be deemed not to be a violation of section 453A.2, subsection 1, for the purpose of determining the number of violations for which a penalty may be assessed pursuant to subsection 2, if the retailer provides written documentation that the employee of the retailer has completed an in-house tobacco compliance employee training program or a tobacco compliance employee training program which is substantially similar to the I Pledge program which is approximately one (1) hour in length as developed by the alcoholic beverages division of the Department of Commerce. A retailer may assert only once in a four (4) year period the bar under this subsection against assessment of a penalty pursuant to subsection 2, for a violation of section 453A.2, that takes place at the same place of business location.
2. If a retail permit is suspended or revoked under this section, the suspension or revocation shall only apply to the place of business at which the violation occurred and shall not apply to any other place of business to which the retail permit applies but at which the violation did not occur.
3. The City Clerk shall report the suspension or revocation of a retail permit under this section to the Iowa Department of Public Health within thirty (30) days of the suspension or revocation of any retail permit.

(Code of Iowa, Sec. 453A.22)

3-8-8 PERMITS NOT TRANSFERABLE. A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit moves the place of business, the City Council, if it decides to issue a new permit for the new place of business, 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.

3-8-9 DISPLAY. The permit shall be displayed in the place of business so that it can be seen easily by the public.

(Code of Iowa, Sec. 453A.13(10))

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 9 ALCOHOLIC BEVERAGES**

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

3-9-1 PURPOSE. The purpose of this chapter is to provide for administration of licenses and permits and for local regulations and procedures for the conduct of the sale and consumption of beer, wine, and liquor, for the protection of the safety, health, and general welfare of this community.  
(Code of Iowa, Sec. 364.1)

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

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

15. 123.46 Consumption in Public Places - Intoxication - Right to Chemical Test -Notifications  
- Exoneration
16. 123.47 Persons Under Legal Age - Penalty
17. 123.49 Miscellaneous Prohibitions
18. 123.50 Criminal and Civil Penalties
19. 123.51 Advertisements for Alcoholic Liquor, Wine or Beer
20. 123.52 Prohibited Sale
21. 123.90 Penalties Generally
22. 123.95 Premises Must Be Licensed - Exception as to Conventions and Social Gatherings
23. 123.122 through 123.145 Beer Provisions (Division II)
24. 123.150 Sunday Sales Before New Year's Day
25. 123.171 through 123.182 Wine Provisions (Division V)
26. 321.284 Open Containers in Motor Vehicles - Drivers
27. 321.284A Open Containers in Motor Vehicles - Passengers

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

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

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

(Code of Iowa, Sec. 123.38)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 10 JUNK AND ABANDONED VEHICLES

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

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

(Code of Iowa, Sec. 3641.1)

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

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

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

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

3. "Public property" means any public right-of-way open for the purposes of vehicular travel.
4. A "junk vehicle" means any vehicle without current license plates or which has any one of the following characteristics:
  - a. Any vehicle with a broken or cracked windshield, or window or headlight or any other cracked or broken glass.
  - b. Any vehicle with a broken or loose or missing fender, door or bumper or hood or door handle or window handle or steering wheel, trunk top or trunk handle or tail pipe.
  - c. Any vehicle which has become the habitat of rats, mice, or snakes, or any other vermin or insects.
  - d. Any motor vehicle if it lacks an engine or two or more wheels or other structural parts which render said motor vehicle totally inoperable
  - e. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.  
(Cedar Falls v. Flett 330 N.W. 2nd 251, 253, Iowa 1983)

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

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

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

1. The Chief of Police or Mayor may, without prior notice or hearing, remove and impound any abandoned vehicle as defined in section 3-10-2 (1). The Chief of Police or Mayor may hire other personnel, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles.
2. The impoundment and storage of all vehicles pursuant to this chapter shall be in such areas or places designated by the City Council.
3. When a vehicle is taken into custody and impounded under the provisions of this chapter, the Chief of Police or Mayor if the Chief of Police is unavailable, shall maintain a record of the vehicle, listing the color, year of manufacture, manufacturer's trade name, body style, vehicle

identification number, and license plate and year displayed on the vehicle. The records shall include the date and hour of tow, location towed from, location towed to, person or firm doing the towing, reason for towing, and the name of the officer authorizing the tow.

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

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

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

1. When a vehicle is taken into custody under the provisions of this chapter or under any provisions of State law, the Chief of Police or Mayor if the Chief of Police is unavailable, shall notify, within three days, by certified mail with five-days return receipt, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to their last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall:
  - a. Describe the year, make, model, and serial number of the vehicle.
  - b. Describe the personal property found in the vehicle.
  - c. Describe the location of the facility where the vehicle is being held.
  - d. Inform the persons receiving notice:
    - (1) of their right to reclaim the vehicle and personal property within ten days after the effective date of the notice;
    - (2) that the right can be exercised upon payment of all towing, preservation, notice, and storage charges resulting from placing the vehicle in custody;
    - (3) that failure of the owner or lienholders to exercise their right to reclaim the vehicle within the reclaiming period shall be deemed a waiver by the owner and all lienholders of all right, title, claim, and interest in the vehicle;
    - (4) that failure to reclaim the vehicle is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher.
  - e. State that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or personal property by the Chief of Police or the assessment of fees and charges provided by this chapter may request a hearing to contest these matters in accordance with the provisions of Section 3-10-6.

f. State that a request for a hearing must be in writing and received by the department prior to the expiration of the ten day reclaiming period.

g. State that in the event a hearing is requested immediate release of the vehicle may be obtained by posting a cash bond as required by Section 3-10-5.  
(Code of Iowa, Sec. 321.89(3)(a))

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

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

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

a. the identity of the last registered owner cannot be determined, or

b. the registration contains no address for the owner, or

c. it is impossible to determine with reasonable certainty the identity and address of all lienholders.

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

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

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

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

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

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

- a. an impoundment fee
- b. towing charges
- c. preservation charges
- d. storage charges
- e. notice charges

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

2. The amount of the charges specified in a-e shall be set by the City Council. The notice charges shall be limited to the actual cost.
3. If a hearing is requested under Section 3-10-4 (1)(e), the owner or person lawfully entitled to possession of the vehicle shall be permitted to secure the immediate release of the vehicle upon posting a cash bond in an amount equal to the sum of:
  - a. the fees required by Section 3-10-5(1)
  - b. the amount of the fine or penalty for each violation for which there is an outstanding or otherwise unsettled traffic violation notice or warrant.

#### 3-10-6 HEARING PROCEDURES.

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

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

3-10-7 AUCTION OR DISPOSAL OF ABANDONED VEHICLES. The Chief of Police shall follow the procedures in State law for the auction or disposal of abandoned vehicles.

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

3-10-8 JUNK VEHICLES DECLARED A NUISANCE. Except as hereinafter provided, it is hereby declared that the parking, leaving, or storage of a junk vehicle upon either public or private property within the corporate limits of the City of Shelby, Iowa, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk vehicle is stored upon private property or public property in violation thereof, the owner of the property shall be liable for said violation.

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

1. Whenever the Chief of Police or Mayor if the Chief of Police is unavailable, shall find a junk vehicle placed or stored on private property within the City in violation of Section 3-10-8, the Chief of Police shall notify, by certified mail with five days' return receipt, the following persons:
  - a. the owner of the property.
  - b. the occupant of the property.
2. The notice to abate shall:
  - a. describe, to the extent possible, the year, make, model, and color of the vehicle.
  - b. describe the location of the vehicle.
  - c. state that the vehicle constitutes a nuisance under the provisions of this chapter.
  - d. state that the owner of the property shall remove or repair the said junk vehicle within ten days.

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

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

3-10-11 COLLECTION OF COST OF ABATEMENT. The Clerk shall mail a statement of the total expense incurred to the property owner who has failed to abide by the notice to abate, and if the amount shown by the statement has not been paid within one month, the Clerk shall certify the costs to the County Treasurer and the costs shall then be collected with, and in the same manner, as general property taxes.

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

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

1. A vehicle in an enclosed building.
2. A vehicle on the premises of a business enterprise operated in a district properly zoned therefor, as authorized under the Zoning Ordinance or restricted residence district of this City, when necessary to the operation of said business enterprise.

3. A vehicle in an appropriate storage space or depository maintained in a lawful place and lawful manner by this City.

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

## **TITLE III COMMUNITY PROTECTION**

### **CHAPTER 11 DRUG PARAPHERNALIA**

3-11-1 Definitions

3-11-2 Exemption

3-11-3 Prohibition

3-11-1 DEFINITIONS. As used in this Section, "drug paraphernalia" means all equipment, products, or materials of any kind used or attempted to be used in combination with a controlled substance, except those items used in combination with the lawful use of a controlled substance, to knowingly or intentionally and primarily do any of the following:

1. Manufacture a controlled substance.
2. Inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.
3. Test the strength, effectiveness, or purity of a controlled substance.
4. Enhance the effect of a controlled substance.

(Code of Iowa, Sec. 124.414)

3-11-2 EXEMPTION. "Drug paraphernalia" does not include hypodermic needles or syringes if manufactured, delivered, sold, or possessed for a lawful purpose.

(Code of Iowa, Sec. 124.414)

3-11-3 PROHIBITION. It is unlawful for any person to knowingly or intentionally manufacture, deliver, sell, or possess drug paraphernalia.

(Code of Iowa, Sec. 124.414)

## TITLE III COMMUNITY PROTECTION

### CHAPTER 12 HAZARDOUS SUBSTANCE SPILLS

3-12-1 Purpose	3-12-5 Notifications
3-12-2 Definitions	3-12-6 Police Authority
3-12-3 Cleanup Required	3-12-7 Liability
3-12-4 Liability for Cleanup Costs	

3-12-1 PURPOSE. In order to reduce the danger to the public health, safety and welfare from the leaks and spills of hazardous substances, these regulations are promulgated to establish responsibility for the treatment, removal and cleanup of hazardous substance spills within the City limits.

3-12-2 DEFINITIONS. For purposes of this chapter the following terms are defined:  
"Cleanup" means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove or dispose of a hazardous substance.

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

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

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

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

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

3. "Responsible person" means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the

hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.

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

**3-12-3 CLEANUP REQUIRED,** Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted into the air or discharged into any waters, including ground waters, the responsible person shall cause the condition to be remedied by a cleanup, as defined in the preceding section, as rapidly as feasible to an acceptable, safe condition. The costs of cleanup shall be borne by the responsible person. If the responsible person does not cause the cleanup to begin in a reasonable time in relation to the hazard and circumstances of the incident, the City may, by an authorized officer, give reasonable notice, based on the character of the hazardous condition, said notice setting a deadline for accomplishing the cleanup and stating that the City will proceed to procure cleanup services and bill the responsible person for all costs associated with the cleanup if the cleanup is not accomplished within the deadline. In the event that it is determined that immediate cleanup is necessary as a result of the present danger to the public health, safety and welfare, then no notice shall be required and the City may proceed to procure the cleanup and bill the responsible person for all costs associated with the cleanup. If the bill for those services is not paid within thirty (30) days, the City Attorney shall proceed to obtain payment by all legal means. If the cost of the cleanup is beyond the capacity of the City to finance it, the authorized officer shall report to the Council and immediately seek any State or Federal funds available for said cleanup.

**3-12-4 LIABILITY FOR CLEANUP COSTS.** The responsible person shall be strictly liable for all of the following:

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

**3-12-5 NOTIFICATIONS.**

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

**3-12-6 POLICE AUTHORITY.** If the circumstances reasonably so require, the law enforcement officer or an authorized representative may:

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

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

**3-12-7 LIABILITY.** The City shall not be liable to any person for claims of damages, if injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 3-12-2.

## TITLE III COMMUNITY PROTECTION

### CHAPTER 13 ADULT BUSINESSES

3-12-1 Definitions	3-12-10 Posting or Display
3-12-2 License Required for Adult Business	3-12-11 Inspectors and Inspections
3-12-3 License Required for Manager, Servers and Entertainers	3-12-12 Suspension, Revocation, or Non- renewal of License
3-12-4 License Classification and Fees	3-12-13 Renewal
3-12-5 License Limited	3-12-14 Judicial review – stay of enforcement of orders
3-12-6 License Applications	3-12-15 Regulations
3-12-7 Issuance of License or Disapproval	3-12-16 Application to Existing Businesses
3-12-8 Ineligibility and Disqualification	
3-12-9 Standards of Conduct	

3-12-1 DEFINITIONS. For the purposes of this section and unless the context plainly requires otherwise, the following definitions are adopted:

1. "Adult Business" means any business that has as a substantial or significant purpose the sale or rental of merchandise that is intended for use in connection with specified sexual activities, or that emphasizes matters depicting, describing or relating to specified sexual activities or specified anatomical areas; or that has as one of its regular and substantial business purposes (1) the providing of entertainment where the emphasis is on performance, live or otherwise, that depict, portray, exhibit or display specified anatomical areas or specified sexual activities; or (2) the providing of services that are intended to provide sexual stimulation or gratification or that allow observation of specified sexual activities or specified anatomical areas ancillary to other pursuits, or allow participation in specified sexual activities ancillary to other pursuits. The definition of "adult business" also includes but is not limited to any and all of the following specific adult businesses, as defined herein:

- a. Businesses that offer merchandise for sale or rent.

(1) "Adult media outlet" means a business engaging in the barter, rental or sale of items consisting of books, magazines, periodicals, other printed matter, pictures, slides, records, videotapes, compact discs, motion pictures, films or other media, if such business is not open the public generally but not only to one or more classes of the public, excluding any minor, by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas",

or if the principal business purpose or a significant portion of the business' stock in trade is the dissemination of such items.

(2) "Adult newsrack" means any coin-or-card operated device that offers or sale by dispensing printed material which is distinguished or characterized by its emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(3) "Adult retail establishment" means a business which offers for sale or rent instruments, devices, gifts, or paraphernalia which are designed or marketed for use in connection with specified sexual activities, clothing that graphically depicts specified anatomical areas or any of the materials sold or rented in an "adult media outlet" as defined above, if a substantial or significant portion of such items are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas." For purposes of this subsection, the presumptions relative to what constitutes a "substantial significant" portion of a business set forth in the definition of "adult media outlet" shall apply hereto. In determining whether an item is "designed or marketed for use" in connection with specified sexual activities, the following guidelines may be considered:

- (a) expert testimony as to the principle use of the item;
- (b) evidence concerning the total business of a person or business establishment and the type of merchandise involved in the business;
- (c) national and local advertising concerning the use of the item;
- (d) evidence of advertising concerning the nature of the business establishment;
- (e) instructions, graphics or other material contained on the item itself or on the packaging materials for the item;
- (f) the physical or structural characteristics of the item;
- (g) the manner in which the item is displayed, including its proximity to the other regulated merchandise or signage relating to items in a display area,

Any person may request an interpretive ruling from Law Enforcement, or his or her designee, as to whether a particular item is considered by the City to be "designed or marketed for use" in connection with specified sexual activities. An application for an interpretive ruling shall be made in writing on a form provided by the Law Enforcement, and shall be accompanied by such other information as they may reasonably be requested under the circumstances pertaining to the specific item about which a ruling is requested. Law Enforcement shall issue a written interpretive ruling within ten business days following submission of a completed application. The

decision of Law Enforcement may be appealed to the City Council within fifteen days following the interpretive ruling by submitting a written notice of appeal to the City Clerk.

- b. Businesses that provide entertainment: "Adult entertainment business" means any business to which the public, patrons or members are invited, or admitted, and where providing "adult entertainment," as defined herein, is a regular and substantial portion of its business. The definition of "Adult Entertainment Business" also includes, but is not limited to, any and all of the following specific adult entertainment businesses, as defined herein:
- (1) "Adult motion picture theater" means an establishment with a screen or projection areas, where a regular and substantial portion of its business is the exhibition to patrons of films, videotapes or motion pictures which are intended to provide sexual stimulation or sexual gratification to the patrons and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.
  - (2) "Adult theater" means an establishment where a regular and substantial portion of its business is providing the live performance of activities relating to specified sexual activities or exhibition of specified anatomical areas of live performers, for observation by patrons.
  - (3) "Adult entertainment cabaret" means an establishment where a regular and substantial portion of its business is providing adult entertainment which features strippers, male or female impersonators, or live performances; or material which is primarily characterized by an emphasis on specified sexual activities or specified anatomical areas.
  - (4) "Adult entertainment studio" (includes the terms "rap studio," "exotic dance studio," or "encounter studio") means an establishment whose premises are physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common areas of the premises, and where a regular and substantial portion of its business is providing entertainment which features materials or live performances characterized by an emphasis on or features materials relating to specified sexual activities or the exhibition of specified anatomical areas.
  - (5) "Adult encounter parlor" means an establishment where a regular and substantial portion of its business is the provision of premises where patrons congregate, associate, or consort with employees, performers, and/or other patrons or private contractors who display specified anatomical areas in the presence of such patrons, with the intent of providing sexual gratification or stimulation to such patrons.

- (6) "Body Painting Studio" means an establishment where a regular and substantial portion of its business is the application of paint or other substance to or on the human body by any means of application, technique or process when the subject's body displays for the patron's view specified anatomical areas.
- c. Businesses that provide services.
- (1) "Bath House" means an enterprise where a regular and substantial portion of its business is offering baths and/or showers with other persons present who are nude or displaying specified anatomical areas.
- (2) "Adult Motel" means an enterprise where a regular and substantial portion of its business is offering public accommodations for the purpose of viewing closed-circuit television transmissions, films, movies, motion pictures, video cassettes, video tapes, slides or other photographic reproductions which are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas and which rents room accommodations for less than six hours at a time.
2. "Adult entertainment" means any exhibition, performance, display or dance of any type, including, but not limited to, talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing, or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if the entertainment involves a person who is nude or in such attire, costume or clothing as to expose specified anatomical areas to view, even if completely and opaquely covered.
3. "Communicable diseases" means those diseases which are defined by Section 139A.2 of the Code of Iowa, as amended.
4. "Employee" means any and all persons, including managers, entertainers and independent contractors, who work in or at or render any services directly related to the operation of an adult business.
5. "Entertainer" means any person who provides adult entertainment within an adult business, whether or not a fee is charged or accepted for entertainment.
6. "Manager" means any person who manages, directs, administers, or is in charge of the affairs and or conduct of any portion of any activity at any adult business.

7. "Minor" means any person less than twenty-one years of age.
8. "Operate" means to own, conduct or maintain the affairs of an adult business.
9. "Operator" means any person owning, operating, conduct or maintaining an adult business.
10. "Patron" means any person who enters an adult business without regard to whether a purchase is made from the adult business or compensation is paid to the adult business or any employee of the adult business or any employee of the adult business for merchandise, entertainment or service, however the term "patron" does not include persons who enter an adult business for the sole purpose of providing service or merchandise to the adult business after the purpose has been accomplished including, but not limited to, persons performing construction, repair or maintenance on the premises or delivering goods or merchandise to the adult business and any such similar activity.
11. "Person" means any individual, partnership, corporation, trust, incorporated or unincorporated association, joint venture, governmental entity, or other entity or group of persons, however organized.
12. "Server" means any person who serves food or drink at an adult entertainment business.
13. "Specified anatomical areas" means: (i) uncovered or exposed human genitals, pubic region or pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola encircling the nipple, or any combination of the foregoing; or (ii) human male genitals in a discernibly erect state, even if completely and opaquely covered.
14. "Specified sexual activities" means: sexual conduct, including actual or stimulated acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks, or the breast of a female; or any sadomasochistic abuse or acts involving animals or any latent objects in an act of apparent sexual stimulation or gratification.

### 3-12-2 LICENSE REQUIRED FOR ADULT BUSINESS

1. It shall be unlawful for any person to operate or maintain an adult business in the City unless the owner, operator or lessee thereof has obtained an adult business license from the City, or to operate such business after such license has been revoked or suspended by the City.

2. It is unlawful for any entertainer, server, employee, manager, operator or owner to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult business.
3. The failure to post an adult business license in the manner required herein shall be prima facie evidence that an adult business has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, employee, manager or owner who performs any business, service or entertainment in an adult business in which an adult business license is not posted in the manner required herein had knowledge that such business is not licensed.
4. Any business that engages in the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audiotapes, videotapes, compact discs, motion pictures, films or other media, if such business is not open to the public in general but only to one or more classes of the public, excluding any minor by reason of age, or if a substantial or significant portion of such items are distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" shall be deemed to have consented to periodic entry into and inspection of the business premises by appropriate city officials and inspection by those officials of only those business records necessary for the limited purpose of determining whether such business enterprise is an "Adult Business" as defined therein. This entry and inspection shall take place during hours when such business is open to the public, unless otherwise requested by the business, and shall not unreasonably interfere with the conduct of such business.

3-12-3 LICENSE REQUIRED FOR MANAGERS, SERVERS, AND ENTERTAINERS. It is unlawful for any person to work as an entertainer, server or manager at an adult business without first obtaining a license to do so from the City, or to work as an entertainer, server or manager at an adult business after such person's license to do so has been revoked or suspended.

#### 3-12-4 LICENSE CLASSIFICATION AND FEES

1. The license year for all fees required herein shall be from January 1 through December 31. The application for a license shall be accompanied by payment in full of the fee stated herein by certified or cashier's check or money order, and no application shall be considered complete until such fee is paid.
2. All licenses shall be issued for a specific location and shall be nontransferable, and license fees shall be nonrefundable.
3. The classification of licenses and fees for each shall be as follows:
  - a. Adult business license fee is \$2500.00 per year;
  - b. Manager's license fee is \$200.00 per year;
  - c. Entertainer's license fee is \$200.00 per year;
  - d. Server's license fee is \$200.00 per year.

### 3-12-5 LICENSE LIMITED TO ONE IDENTIFIABLE TYPE OF ADULT USE.

All adult business licenses shall be issued only for one adult business use listed on the application. Any change in the type of adult use shall invalidate the adult business license and require the licensee to obtain a new license for the change in use. A separate license is required for each adult use.

### 3-12-6 LICENSE APPLICATIONS.

1. Adult Business License. All persons desiring to secure a license to operate an adult business as required herein shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person who owns the adult business. The application shall be signed by the applicant. If the applicant is a corporation, the application shall be signed by its President. If the applicant is a partnership, the application shall be signed by a partner. In all other instances where the owner is not an individual, where applicable, the application shall be signed by an authorized representative of the owner. The City Clerk may require proof of authorization before accepting an application. All applications shall be submitted on a form supplied by the City Clerk and shall require all of the following information:
  - a. The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.
  - b. The tax identification number and registered agent if the owner is required to have a tax identification number or registered agent.
  - c. The name of the adult business, a description of the type of adult business to be performed on the licensed premises, and the name of the owner of the premises where the adult business will be located.
  - d. The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership or limited liability partnership; and if the applicant is a corporation or limited liability company, the same information for all corporate officers and directors and stockholders or members who own more than 25% interest in the corporation.
  - e. A statement from the applicant whether the applicant, or any corporate officer or director, or stockholder, partner or member who owns more than 25% interest in such entity in previously operating in this or another city, county or state, has had an adult business license of any type revoked or suspended, and if so, the reason for the suspension or revocation and the business activity subjected to the suspension or revocation.

- f. A statement from the applicant, all partners or each corporate officer and director that each such person has not been convicted or: or diverted from prosecution on, any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of, or diverted from prosecution on, a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two years immediately preceding the application, where such felony or misdemeanor involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography or related offenses, or controlled substances or illegal drugs or narcotics offenses as defined in the Iowa Statutes or municipal ordinances. The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.
  - g. On applications requesting a license to operate a bath house or body painting studio, the applicant shall provide for each employee, a health certificate from a duly licensed Iowa physician stating that within 90 days prior thereto, the applicant and all other persons working on the premises have been examined and found free of any contagious or communicable disease as defined herein. This shall be a continuing requirement. For each person who is employed, the above described health certificate shall be submitted to the City Clerk within 48 hours of the time such person begins employment.
  - h. If the applicant is a corporation or limited liability company, a current certificate of registration issued by the Iowa Secretary of State.
  - i. A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions of this ordinance regulating adult businesses.
2. Manager, Server or Entertainers License. All persons desiring to secure a license to be a manager, server or entertainer shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person proposing to be a manager, server or entertainer. All applications shall be submitted on a form supplied by the city clerk and shall require all of the following information:
- a. The applicant's name, home address, home telephone number, date of and place of birth, social security number, and any stage names or nicknames used in entertaining.

- b. If applicable, the name and address of each adult business where the applicant intends to work as a manager, server or entertainer.
  - c. A statement from the applicant that the applicant has not been convicted of, or released from confinement for conviction of, or diverted from prosecution on, any felony, whichever event is later, within five (5) years immediately preceding the application, or has not been convicted of, or diverted from prosecution on, a misdemeanor, or released from confinement for conviction of a misdemeanor, whichever event is later, within two years immediately preceding the application where such felony or misdemeanor involved sexual offenses, prostitution, indecent exposure, sexual abuse of a child or pornography and related offenses, or controlled substances or illegal drugs or narcotics offenses or defined in the Iowa Statutes or municipal ordinances. The statement shall also indicate that the applicant has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation within two (2) years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.
  - d. The applicant shall present to the City Clerk, who shall copy, documentation that the applicant has attained the age of 21 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:
    - (1) A motor vehicle operator's license issued by any state, bearing the applicant's photograph and date of birth;
    - (2) A state-issued identification card bearing the applicant's photograph and date of birth;
    - (3) An official and valid passport issued by the United States of America;
    - (4) An immigration card issued by the United States of America;
    - (5) Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk; or
    - (6) Any other form of identification deemed reliable by the City Clerk.
3. Incomplete Applications. Failure to provide the information required herein shall constitute an incomplete application. The City Clerk shall notify the applicant whether or not the application is complete within ten (10) working days of the date the application was received by the City Clerk.
4. Application processing. Upon receipt of an application for an adult business, manager, server, or entertainer license, the City Clerk shall immediately transmit one copy of the application to the Police Chief for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the Zoning Administrator and the Fire Inspector. It shall be the duty of the Police Chief to investigate such application to determine whether the information contained in the application is accurate and whether

the application meets the requirements herein for issuance of the license for which the application is made. The Police Chief shall report the results of the investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk. It is the duty of the Zoning Administrator and the Fire Inspector to determine whether the structure where the adult business will be conducted complies with the requirements and meets the standards of the applicable health, zoning, building code, fire and property maintenance ordinances of the City. The Zoning Administrator and the Fire Inspector shall report the results of their investigation to the City Clerk not later than ten (10) working days from the date the application is received by the City Clerk. Upon receipt of the reports from the Police Chief, the Zoning Administrator and the Fire Inspector, the City Clerk shall schedule the application for consideration by the City Council body at the earliest meeting consistent with the notification requirements established by law, provided the license application for an adult business, server, manager or entertainer license shall be approved or disapproved within thirty (30) days from the date the application is received by the Clerk. The applicant shall be notified in writing of the date when the Council will consider the application and shall be afforded an opportunity to be heard at that meeting.

### 3-12-7 ISSUANCE OF LICENSE OR DISAPPROVAL

1. The Council shall examine an application for an adult business license, or a manager, server, or entertainer license within thirty (30) days of the date such application was received by the Clerk. After such examination, the Council shall approve the issuance of a license only if the appropriate license fee has been paid, applicant is qualified, and all the applicable requirements set forth herein are met. No license shall be approved for any person ineligible pursuant to the provisions herein. All incomplete applications shall be denied.
2. The record of the Council shall show the action taken on the application, and if the license is granted, the governing body shall direct the Clerk to issue the proper license. The adult business license and all manager, server and entertainer licenses shall state that they are not transferable to other persons or entities and the calendar year for which they are issued.
3. If an application for a license is disapproved, the applicant shall be immediately notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in the Shelby County District court in a manner provided by law.

3-12-8 INELIGIBILITY AND DISQUALIFICATION. The following persons are not eligible and no license shall be issued to:

1. An applicant for an adult business license if one or more of the following conditions exists:
  - a. The application is for an adult business located in any zoning district other than an M-1 or M-2 zoning district.
  - b. The premises for which an application for an adult business has been made is located within 500 feet of any school, church, licensed daycare center, public park, or property zoned or used for residential purposes, which uses are located within the City limits. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the premises from which the adult business would be operated to the nearest point on the property line of any school, church, licensed day care center, public park or property used for residential purposes located within the City; provided, however: (i) the phrase “property zoned or used for residential purposes” does not include any property zoned for residential use for which a special use permit has been granted for an indefinite period of time and which permit allows a nonresidential use; (ii) the list of protected uses set forth herein excludes streets, alleys and highway rights-of-way, (iii) any school, church or licensed day care center located within commercially zoned property pursuant to a special use permit shall be included as a protected use.
  - c. The premises for which an application for an adult business has been made is located within 500 feet of any other adult business for which there is a license issued by the City. Measurements shall be made in a straight line, without regard to intervening structures or objects from the premises from which an adult business would be operated to the nearest point on the property line of such other adult business located within the City; provided, however, the list of protected uses set forth herein shall exclude streets, alleys and highway rights-of-way.
  - d. The applicant knowingly failed to supply all of the information requested on the application.
  - e. The applicant knowingly gave materially false, fraudulent or untruthful information on the application;.
  - f. The applicant's proposed business premises does not comply with or meet the requirements of the applicable health, zoning, building code, fire and property maintenance ordinances of the City, provided, that upon a showing that the premises meets said requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the Council.

- g. The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth herein during the time period set forth herein.
  - h. The applicant has had an adult business license or comparable license revoked or suspended in the City or in any other city during the past five (5) years.
  - i. The applicant is applying for a license to operate a bath house or body painting studio and applicant has not produced a health certificate as required herein for all persons working on the premises.
2. An applicant for a manager, server, or entertainer license if one or more of the following conditions exist:
- a. The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth herein during the time period set forth herein.
  - b. The applicant knowingly failed to provide all of the information required on the application.
  - c. The applicant knowingly gave materially false, fraudulent or untruthful information on the application.
  - d. The applicant has had a manager, server or entertainer license revoked or suspended in the City or in any other city during the past five (5) years.
  - e. The applicant is applying for a license for a manager, server or entertainer in a bath house or body painting studio and has not produced a health certificate as required herein.

3-12-9 STANDARDS OF CONDUCT. The following standards of conduct shall be adhered to by all adult businesses, their employees and all managers, servers and entertainers and patrons of adult businesses, while on or about the premises of the business:

- 1. Identification Cards. All managers, servers or entertainers issued a license by the Chief of Police under the provisions contained herein, at all times when working in an adult business, shall have in their possession a valid identification card issued by the City, bearing the permit number, the employee's physical description and a photograph of such employee. Such identification cards shall be laminated to prevented alteration.
- 2. Age restriction. Only persons 21 years of age or older shall be permitted on the premises of any adult entertainment business.

3. Exterior Observation. The premises of all adult businesses will be so constructed as to insure that the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.
4. Exterior Display. No adult business will be conducted in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or persons depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, from any exterior source by display, decoration, sign, show window or other opening.
5. Nudity prohibited. No manager, employee, server, entertainer or patron in an adult business other than a licensed bath house shall appear nude, unclothed, in less than opaque attire or in any fashion that exposes to view any specified anatomical area.
6. Certain Acts Prohibited.
  - a. No manager, employee, server, entertainer or patron shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which simulates an specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities or participate in any act of prostitution as prohibited by state law or municipal ordinance while on the premises of an adult business.
  - b. No employee, server, entertainer or patron of an adult business while on the premises of an adult business shall knowingly touch, fondle or caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.
  - c. No employee, manager, server, or entertainer of an adult business shall be visible from the exterior of the adult business while such person is nude or unclothed or in such attire, costume or clothing as to expose to view a specified anatomical area.
  - d. No employee, manager, server, or entertainer of an adult business shall dance or perform closer than 6 feet from any customer, employee or other entertainer or dancer and shall at all times perform on a stage which is at least 18 inches high.
  - e. No entertainer shall solicit, demand or receive any payment or gratuity from any patron for any act prohibited herein and while on the premises of an adult business

and no entertainer shall receive any payment or gratuity from any patron for any entertainment except as follows:

(1) While such entertainer is on the stage a patron may place such payment or gratuity into a box affixed to the stage; or

(2) While such entertainer is not on the stage but while on the premises of an adult business and is clothed so as to not expose to view any specified anatomical area, a patron may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four (4) inches below the bottom of the pubic region.

f. No owner, operator, manager or other person in charge of the premises of an adult business shall:

(1) Knowingly permit alcoholic liquor or cereal malt beverage to be brought upon or consumed on the premises;

(2) Knowingly allow or permit the sale, distribution, delivery or consumption of a controlled substance or illegal drug or narcotic on the premises;

(3) Knowingly allow or permit any person under the age of twenty-one (21) to be in or upon the premises of an adult entertainment business;

(4) Knowingly allow or permit any act of patronizing prostitution on the premises, as prohibited by State law or municipal ordinance;

(5) Knowingly allow or permit a violation of this ordinance or any other City ordinance provision or State law.

7. Signs required. All adult entertainment businesses that provide live entertainment shall conspicuously display in the common area at the principal entrance to the premises, a sign, on which uppercase letters shall be at least two (2) inches high, and lower case letters at least one inch high, which shall read as follows: NO ONE UNDER AGE 21 ADMITTED AT ANY TIME FOR ANY REASON

8. Lighting required. The premises of all adult businesses shall be equipped with overhead lighting of every place to which customers are permitted access, at an illumination of not less than one foot-candle, as measured at the floor level, and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

9. Closed booths or rooms prohibited. The premises of all adult business shall be physically arranged in such manner that the entire interior portion of any booths, cubicles, rooms or stalls is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes or any other obstruction whatsoever.
10. Ventilation and sanitation requirements. The premises of all adult businesses shall be kept in a sanitary condition. Except as otherwise provided herein, separate dressing rooms and rest rooms for men and women shall at all times be maintained and kept in a sanitary condition.
11. Hours of operation. No adult business may be open or in use between the hours of 2:00 a.m. and 9:00 a.m. on any day other than a Sunday when the business may not be open between the hours of 2:00 a.m. and 12:00 noon.
12. Facilities necessary. No adult business license to conduct a bath house or body painting studio shall be issued unless an inspection by the Zoning Administrator of Environmental Health, or his/her authorized representative reveals that the premises on which the applicant intends to conduct such business complies with each of the following minimum requirements:
  - a. The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given or showers taken. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the business' operation shall be maintained in a clean and sanitary condition. Towels, linen, and items for personal use of operators and patrons shall be clean and freshly laundered. Towels, cloths, and sheets shall not be used for more than one patron. Heavy, white paper may be substituted for sheets provided that such paper is changed for every patron. No activity related to an adult business shall be carried on within any cubicle, room, booth, or any area within any permitted establishment which is fitted with a door capable of being locked.
  - b. Toilet facilities shall be provided in convenient locations. A single water closet per gender shall be provided for each 20 or more employees or patrons of that gender on the premises at any one time. Urinals may be substituted for water closets after one water closet has been provided. Toilets shall be designated as to the gender accommodated therein.
  - c. Lavatories or wash basins provided with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.

The Administrator of Environmental Health, shall certify that the proposed business establishment complies with all of the requirements of this section and shall give or send such certification to the City Clerk; provided, however, that nothing contained herein shall be

construed to eliminate other requirements of statute or ordinance concerning the maintenance of premises, nor to preclude authorized inspection thereof. The appropriate City official may recommend the issuance of a license contingent upon the compliance with any requirements in this section.

3-12-10 POSTING OR DISPLAY. Every person licensed as an adult business shall post such license in a conspicuous place and manner on the adult business premises. Every person holding a server, manager or entertainer license shall post his or her license in his or her work area on the adult business premises so it shall be readily available for inspection by City authorities responsible for enforcement of this chapter.

3-12-11 INSPECTORS AND INSPECTIONS. All adult businesses shall permit representatives of the Police Department or any other City official acting in his or her official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws.

3-12-12 SUSPENSION. REVOCATION OR NONRENEWAL OF LICENSE.

Whenever the City Clerk has information that:

1. The owner or operator of an adult business or a holder of a manager, server or entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this ordinance; or
2. There have been recurrent violations of provisions of this ordinance that have occurred under such circumstances that the owner or operator of an adult business knew or should have known that such violations were committed; or
3. The adult business license or the manager, server or entertainer license was knowingly obtained through false statements in the application for such license, or renewal thereof; or
4. The adult business license or the manager, server or entertainer licensee knowingly failed to make a complete disclosure of all information in the application for such license, or renewal thereof; or
5. The owner or operator, or any partner, or any corporate officer or director holding an adult business license has become disqualified from having a license by a conviction as provided herein; or
6. The holder of a manager, server or entertainer license has become disqualified from having a license by a conviction as provided herein, then the Clerk shall make this information known to the Council, which, upon five (5) day's written notice to the person holding the license, shall conduct a public hearing to determine whether the license

should be suspended or revoked. The Council may pass a resolution setting forth the procedures for the conduct of such hearings. Based on the evidence produced at the hearing, the governing body may take any of the following actions:

- a. Suspend the license for up to ninety (90) days;
- b. Revoke the license for the remainder of the license year; or
- c. Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of the ordinance occur during the period of probation. If a violation does occur and after a hearing the violation is determined to have actually occurred, the license will be revoked for the remainder of the license year.

### 3-12-13 RENEWAL.

1. A license may be renewed by making application to the Clerk on application forms provided for that purpose. Licenses shall expire on December 31, of each calendar year, and renewal applications for such licenses shall be submitted between December 16 and December 31.
2. Upon timely application and review as provided for a new license, a license issued under the provisions of this ordinance shall be renewed by issuance of a new license in the manner provided herein.
3. If the application for renewal of a license is not made during the time provided herein, the expiration of such license shall not be affected, and a new application shall be required.

3-12-14 JUDICIAL REVIEW – STAY OF ENFORCEMENT ORDERS. Following the entry of an order by the City Clerk suspending or revoking a license issued pursuant to this chapter, or disapproving the renewal application for a license, such licensee or applicant may seek judicial review in a manner provided by law. The City Clerk shall stay enforcement of such order for a period of time not to exceed thirty (30) days pending the filing and/or final disposition of proceedings for judicial review.

3-12-15 REGULATIONS. The City Clerk shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of his/her office and which are not inconsistent with the provisions of this chapter.

### 3-12-16 APPLICATION TO EXISTING BUSINESSES.

1. The provisions of this chapter apply to all adult businesses existing on the effective date of the ordinance codified in this chapter as well as to all adult businesses established after such effective date.

2. Any adult business lawfully operating as of the date of the adoption of the ordinance codified herein that does not comply with Section 3-12-8 (1)(a) and (b) herein shall be deemed a non conforming business. The non conforming business will be permitted to continue for a period not to exceed six (6) months, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming businesses shall not be increased, enlarged, extended or altered except that the business may be changed to a conforming business. If two (2) or more adult businesses are within 500 feet of one another and otherwise in a permissible location, the adult business which was first established and continually operating at a particular location is the conforming business, and any later –established business is nonconforming.
3. An adult business lawfully operating as a conforming business is not rendered nonconforming by the location, subsequent to the grant or renewal of the adult business license, of a school, church, licensed day care center, public park or property zoned or used for residential purposes located within the City limits and within 750 feet of the adult business. This provision applies only to the renewal of a valid license and does not apply when an application for a license is submitted after a license has expired or been revoked.
4. Any nonconforming business may apply to the council for an extension of time beyond the date provided herein with which to terminate the nonconforming business or make the business conforming. No such extension of time shall be granted for a period longer than one year after the termination date otherwise set forth herein and shall be granted only upon a showing of extreme hardship.

## TITLE IV MENTAL AND PHYSICAL HEALTH

### CHAPTER 1 ANIMAL CONTROL

4-1-1	Definitions	4-1-14	Destruction of Animals at Large
4-1-2	License	4-1-15	Manner of Destruction
4-1-3	Immunization	4-1-16	Permanent Removal from the City
4-1-4	At Large Prohibited	4-1-17	Animal Waste
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4-1-1 DEFINITIONS. For use in this chapter the following terms are defined as follows:

1. "Advertise " means to present a commercial message in any medium including but not limited to print, radio, television, sign, display, label, tag or articulation.
2. "Animal" means any living creature not human
3. "Animal Control Officer" means any animal control officer under contract with the City to maintain compliance with this chapter.
4. "At large" shall mean any licensed or unlicensed animal found off the premises of the -owner and not under the control of a competent person, restrained within a motor vehicle, housed in a veterinary hospital or kennel, on a leash or "at heel" beside a competent person and obedient to that person's command.
5. "Business" means any enterprise relating to any of the following:
  - a. The sale or offer for sale of goods or services
  - b. A recruitment for employment or membership in an organization
  - c. A solicitation to make an investment
  - d. An amusement or entertainment activity
6. "Dogs" shall mean animals of the canine species whether altered or not
7. "Fair" means any of the following:

- a. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the Code of Iowa or any fair event conducted by a fair under the provisions of Chapter 174 of the Code of Iowa
  - b. An exhibition of agricultural or manufactured products
  - c. An event for operation of amusement rides or devices or concession booths
8. “Game” means a “game of chance” or “game of skill” as defined in Section 99B.1 of the Code of Iowa
9. “Dangerous animal” means
  - a. Any animal which is not naturally tame or gentle, and which is of a wild nature or disposition; and which is capable of killing, inflicting serious injury upon or causing disease among human beings or domestic animals and having known tendencies as a species to do so; including but not limited to:
    - i. Badgers, wolverines, weasels, skunk, and mink
    - ii. Raccoons
    - iii. Bats
    - iv. Scorpions; gila monsters
    - v. Lions, tigers, jaguars, leopards, cougars, lynx, and bobcats;
    - vi. Wolves, coyotes, and foxes;
    - vii. Bears
    - viii. Monkeys, chimpanzees, and apes;
    - ix. Alligators and crocodiles;
    - x. Snakes that are venomous or constrictors
  - b. Any animal declared to be dangerous by the City Council;
  - c. Any dog which has attacked a human being or domestic animal one or more times, without provocation
  - d. Dangerous Animals Exceptions. The keeping of dangerous animals shall not be prohibited in the following circumstances:

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

10. "Livestock" means an animal belonging to the bovine, caprine, equine, ovine or porcine species, ostriches, rheas, emus; farm deer as defined in Section 170.1 of the Code of Iowa; or poultry
11. "Owner" shall mean any person owning, keeping, sheltering or harboring an animal (or allowing the keeping, sheltering or harboring of an animal on the premises of said person).
12. "Pet" means a living dog, cat or animal normally maintained in a small tank or cage in or near a residence, including but not limited to a rabbit, gerbil, hamster, mouse, parrot, canary, mynah, finch, tropical fish, goldfish, snake, turtle, gecko or iguana.
13. "Vicious animal" means:
  - a. Any dog with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals.
  - b. Any dog that snaps, attempts to bite a human being or domestic animal, or manifests a disposition to snap or bite:
  - c. Any dog that, unprovoked, chases or approaches anyone in a menacing fashion off the owner's property;
  - d. Any dog that has been trained for dog fighting, animal fighting or animal baiting, or is owned or kept for such purposes; or
  - e. Any dog trained to attack human beings, upon command or spontaneously in response to human activities, except dogs owned by and under the control of the police department, the county sheriff, a law enforcement agency of the State or the United States or a branch of the armed forces of the United States
  - f. The Staffordshire Terrier breed of dogs;
  - g. The American Pit Bull Terrier breed of dogs;
  - h. The American Staffordshire Terrier breed of dogs;
  - i. Dogs of mixed breed or of other breeds than above listed, which breed or mixed breed is known as pit bulls, pit bull dogs or pit bull terriers; or
  - j. Any dog which has the appearance characteristics of being predominately of the breeds of Staffordshire Terrier, American Pit Bull Terrier, American Staffordshire Terrier, any other breed commonly known as pit bulls, pit bull dogs, or pit bull terriers, or a combination of any of these breeds.

A dog shall not be deemed “vicious” if the threat or injury: (a) is caused by a person who is assaulting the dog’s owner, committing a willful trespass or tort upon the owner’s premises, or provoking, tormenting, or abusing the dog or can be shown to have done so repeatedly at other times, (b) is a response to pain or injury, or is to protect itself, its kennel, its offspring, or its owner’s property, or (c) is inflicted by a dog owned by a law enforcement agency in the line of duty.

#### 4-1-2 LICENSE.

1. Every owner of a dog or cat over the age of six (6) months shall procure a license from the City Clerk-Treasurer on or before January 31<sup>st</sup> of each year.
2. Such license may be procured after January 1 and at any time for a dog or cat which has come into the possession or ownership of the applicant or which has reached the age of six (6) months after said date. In those cases where, by reason of residence outside the City, age, or ownership, the dog or cat is not subject to licensing on January 1 of any calendar year, the owner is required to purchase a license from the Clerk within thirty (30) days after the dog or cat becomes subject to the terms of this chapter. If the license is not purchased within thirty (30) days, the owner shall pay the same license fee in addition to the delinquency fee set out Section
3. The owner of a dog or cat for which a license is required shall apply to the City Clerk on forms provided by the City.
4. The form of the application shall state the breed, sex, age, color, markings, and name, if any, of the dog or cat, the address where the animal is being kept, the address of the owner (if different), and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of the vaccine administered and the date the dog or cat shall be revaccinated.
5. All licenses shall expire on January 1 of the year following the date of issuance.
6. The annual license fee shall be \$10 per year for each spayed/neutered animal and \$22 per year for each unsprayed/neutered animal.
7. In addition to the City license fee, an owner who does not purchase a license before April 1 shall pay a delinquent fee of \$20 for each animal.
8. Upon payment of the license fee, and providing proof of a current vaccination against rabies, the Clerk shall issue to the owner a license which shall contain the name of the owner, the owner's place of residence and a description of the dog or cat. The City Clerk-Treasurer shall keep a duplicate of each license issued as a public record.
9. Upon issuance of the license, the City Clerk-Treasurer shall deliver to the owner a metal tag stamped with the number of the license and the year for which it is issued. The license tag

shall be securely fastened to a collar or harness which shall be worn by the dog or cat for which the license is issued.

10. Any dog found running at large without the license tag attached to its collar or harness shall be deemed unlicensed.
11. It is a violation of this chapter for any owner to own or possess a dog or cat within the City without obtaining a license in compliance with this chapter. Any dog or cat found at large without a valid license from the City, or not wearing a valid rabies vaccination tag and for which no rabies vaccination certificate can be produced, shall be apprehended and impounded.
12. At the time of application for a City license, the owner shall furnish to the appropriate agent or employee of the City the following:
  - a. A certificate showing the animal has been vaccinated against rabies and vaccination has not expired.
  - b. A brief description of the animal, including name, age and predominant breed
  - c. A certificate or statement from a veterinarian state the animal is neutered or spayed and the date of the neutering or spaying if known/
13. A license tag issued for one dog or cat shall not be transferable, to another dog or cat. When the permanent ownership of a dog or cat is transferred, the Clerk shall, by notation on the license record, give the name and address of the new owner.
14. The owner of any dog or cat whose license has been lost or destroyed shall apply for a duplicate license. A fee of \$10 shall be charged for the issuance of a duplicate.

4-1-3 IMMUNIZATION. All dogs six (6) months or older shall be vaccinated against rabies. Before issuance of the license the owner shall furnish a veterinarian's certificate showing that the dog for which the license is sought has been vaccinated, and that the vaccination does not expire within six (6) months from the effective date of the dog license. It shall be a violation of this Ordinance for any dog to not be vaccinated against rabies. A tag showing evidence of proper vaccination shall be worn by every dog when not confined. Dogs not immunized or without a current rabies vaccination tag may be seized and impounded as proved in Section 4-1-6 of this chapter.

(Code of Iowa, Sec. 351.33)

4-1-4 AT LARGE PROHIBITED. No owner or person having custody of an animal shall permit such animal to run at large within the corporate limits of the City. Any dog found at large shall be deemed to be so with the permission or at the sufferance of its owner. For allowing the dog to run at large, the owner shall be guilty of a simple misdemeanor and upon conviction thereof, shall be fined in the sum of fifty dollars (\$50.00) and shall pay the cost of prosecution, including attorney fees. For

allowing a vicious dog to run at large, the owner shall be guilty of a simple misdemeanor and upon conviction thereof, shall be fined in the sum of one hundred dollars (\$100.00) as a scheduled violation and shall pay the cost of prosecution, including attorney fees.

(Code of Iowa, Sec. 351.41)

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

1. Damages, soils, defiles or defecates on private property other than the owner's or on public walks and recreation areas unless such waste is immediately removed and properly disposed of by the owner.
2. Causes unsanitary, dangerous or offensive conditions.
3. Causes a disturbance by excessive barking or other noisemaking or chases vehicles, or molests, attacks or interferes with persons or other domestic animals. Any dog owner who shall suffer or permit his dog to disturb the peace and quiet shall be guilty of a misdemeanor and shall be subject to a fine as follows:
  - a. First offense: \$50.00
  - b. Second offense \$100.00
  - c. Third offense: \$250.00

In addition, the owner shall pay any fees associated with the impoundment of any dog under the provisions of this article.

(Code of Iowa, Sec. 657.1)

4-1-6 IMPOUNDING.

1. Any unlicensed or unvaccinated dog found at large or any licensed dog found at large in violation of 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 vicious animal found to be in violation of this chapter a second time shall be removed from the City or destroyed by euthanasia.
2. Owners of such unlicensed or licensed dogs shall be notified in writing by the Animal Control Officer within two (2) days that upon payment of impounding fees, the dog will be returned. If the impounded licensed dogs are not recovered by their owners within seven (7) days after notice, the dogs may be disposed of as provided in Section 717B.4 Code of Iowa. Impounding Fees are as follows:

First Offense: Fifty dollars (\$50) plus ten dollars (\$10) for keep such dog for each day or fraction thereof during which such dog has been impounded

Second Offense (of same dog): Seventy-five (\$75) plus ten dollars (\$10) for keep such dog for each day thereafter

Third and Successive offenses (of same dog): One hundred (\$100) plus ten dollars (\$10) for keep such dog for each day thereafter

3. Impounded unlicensed dogs may be recovered by the owner upon proper identification, by payment of the license fee, impounding fee and boarding costs, and the costs of vaccination if vaccination is required by Section 4-1-3. If such dogs are not claimed within seven (7) days after notice, they may be disposed of in a humane manner as directed by the City Council.

(Code of Iowa, Sec. 351.37)

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

(Code of Iowa, Sec. 351.39)

5. Animals not reclaimed within the time limitations provided by this Chapter shall become the property of the City or animal shelter and shall be placed for adoption in a suitable home or humanely euthanized. No unclaimed animal shall be released for adoption to a suitable home without being sterilized, or without a written agreement from the adopter, guaranteeing that such animal will be sterilized.

6. The impounding and disposition charge of proceedings may be imposed in addition to criminal sanctions of Section 4-1-4 herein.

7. A \$15.00 fee shall be charged for adoption of any animal from the Animal Shelter. The fee shall be waived only upon adoption of any animal by a certified non-profit organization

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

(Code of Iowa, Sec 351.39)

4-1-7 UNLAWFUL KEEPING OF ANIMALS It shall be unlawful for any person or persons to harbor or keep the following types of animals within the City:

1. A vicious or dangerous animal as defined in Section 4-1-1. It is the duty of the Animal Control Officer to impound any vicious dog or dangerous animal. In the event the animal cannot be caught by the Animal Control Officer without exposing the officer to danger or personal injury, the animal may be destroyed.

2. Livestock, except by written consent of the Council or except in compliance with the City's zoning regulations.
3. Bees, unless the same is specifically authorized under the City's Zoning Ordinance as an agricultural or commercial use.

4-1-8 OWNER'S DUTY. It is the duty of the owner of any dog, cat or other animal which has bitten or attacked a person or any person having knowledge of such bit or attack to report this act to a local health or law enforcement official. It is the duty of physicians and veterinarians to report to the local board of health the existence of any animal known or suspect to be suffering from rabies.

4-1-9 QUARANTINE OF ANIMALS. If the police department or a local board of health receives information that an animal has bitten a person or that an animal is suspected of having rabies, the Police Department or board shall order the owner to confine such animal for a period of ten (10) days at a veterinary clinic. If the owner fails to confine such animal in the manner directed, the animal shall be seized and humanely destroyed. All costs of quarantine and confinement shall be paid by the owner. A quarantined animal may only be recovered by the owner upon payment of all quarantine and confinement costs, upon meeting any licensing requirements, by having it immediately vaccinated. The section does not apply if a law enforcement service dog used by a law enforcement agency and acting in the performance of its duties has bitten a person.

4-1-10 FEMALE DOGS. It is unlawful for any owner to allow or permit a female dog that is in season to run at large or to so confine her as to attract male dogs to the area and by the presence cause a nuisance. Any person violating provisions of this section shall be punished as provided in this chapter and the dog shall be subject to seizure and impoundment, at the expense of the owner during the remainder of the heat period.

4-1-11 ENABLING DOGS TO LEAVE PREMISES. It is unlawful for any person, except for the owner or agent, to open any door or gate of any private premises or vehicle, or to otherwise entice or enable a dog to leave any private premises or vehicle, for the purpose of or with the result of setting such dog at large.

4-1-12 NUMBER OF ANIMALS. It is unlawful, except for a licensed kennel or pet shop, veterinary hospital or animal grooming shop, for an owner to harbor or house on said owner's premises more than a combined total of three (3) dogs and cats over the age of six (6) months.

4-1-13 DISPOSITION OF DISEASED AND INJURED ANIMALS. If, upon examination by a licensed veterinarian, any animal shall prove infected with rabies or otherwise toxic, such dog shall be disposed of and it shall be the duty of said veterinarian to notify the City of Shelby of any positive rabies case found, without delay.

4-1-14 DESTRUCTION OF ANIMALS AT LARGE. It is lawful for an Animal Control Officer, with assistance from the Police Department, to destroy, if necessary, any animal found at large which cannot be captured.

4-1-15 MANNER OF DESTRUCTION, GENERALLY. The Council shall authorize and approve the summary and humane manner and means by which dogs are destroyed as required in this chapter.

4-1-16 PERMANENT REMOVAL FROM CITY. Any animal required by any provision of this chapter to be removed, voluntarily or otherwise, from the City, shall be so removed by its owner or the person harboring or having control of such animal, who shall provide the Animal Control Officer with a notarized statement designating the place to which the animal has been removed. An animal not removed as required, or an animal which has been removed and which is again found illegally within the City shall be destroyed.

4-1-17 ANIMAL WASTE. It is unlawful for any person who owns, houses, leads, walks, or otherwise maintains control of any animal or pet which defecates anywhere within the City limits to fail to immediately remove the feces produced by said animal or pet to a garbage or waste receptacle after first placing said feces in a plastic bag or other impermeable bag and sealing said bag by tying it securely using a "twist tie," tape or other similar device to prevent the odors from escaping from said bag into the atmosphere. All structures, yards, kennels, or pens wherein any dog, cat, pet or other animal is contained must be kept clean and free from odors caused by animal waste and/or feces. This section does not apply to an animal under the direct control of a person with disabilities, which animal is specially trained for the purpose of assisting such person.

4-1-18 REGISTRATION OF KENNELS. The owner of any kennel within the City limits shall be required to obtain a permit by registering said owner's name business address with the Clerk and shall comply with all City ordinances and regulations. A kennel permit shall not be issued to an owner within an R-1, R-2, R-3, R-4 or R-5 Zoning district. A kennel, for this purpose, is defined as the business of keeping or raising four (4) or more animals solely for the bona fide purpose of sale and which animals are kept under constant restraint.

4-1-19 ANIMAL CARE. All owners of any animal shall comply with the following standards of care. Failure to comply with any standard shall be a violation of this section.

1. Every owner shall provide adequate food, shelter and water for each animal. To provide adequate food shall mean providing at intervals appropriate for the species a quantity of wholesome food stuff, suitable for the physical condition and age of the animal, served in a clean receptacle or container, sufficient to maintain an adequate level of nutrition for such animal.
2. Every owner shall provide adequate outdoor shelter for such animal when it is kept outdoors, which shall mean a structurally sound, weatherproof, properly ventilated

shelter, which provides access to shade from direct sunlight and protection from exposure to weather conditions. The shelter should be appropriate for the particular species and breed.

3. Every owner shall provide adequate indoor shelter for such animal when it is kept indoors, which shall mean a properly ventilated and illuminated facility, sufficiently regulated by heating and cooling to protect the animal from extremes of temperature, and to provide for its health and comfort. It should be appropriate for the particular species and breed.
4. Every owner shall provide adequate sanitation which shall mean periodic cleaning or sanitizing housing facilities and any area where the animal is confined or restrained to remove excreta and other waste materials and dirt, so as to minimize vermin infestation, odors and disease hazards.
5. Every owner shall provide adequate space which shall mean primary enclosures and housing facilities shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement to maintain physical condition. The space shall be appropriate for the particular species.
6. Every owner shall provide adequate veterinary care which shall mean that a sick, diseased, or injured animal shall be provided with a proper program of care by a veterinarian, or humanely euthanized. All animals shall be provided with proper immunizations and preventive health care including parasite control.
7. Every owner shall provide adequate water which shall mean reasonable access to a supply of clean, fresh, potable water, provided in a sanitary manner and secured so that the animal can't turn the container over. If potable water is not accessible to the animal at all times, it shall be provided daily, for such duration and of sufficient quantity as appropriate for the species.
8. Every owner shall keep the animal cleaned and provide proper grooming as appropriate for the species.

4-1-20 LIMITED TYING OF ANIMALS. It is unlawful for a person to tie or leash any dog or other animal to inanimate objects such as trees, posts, stakes, fences, buildings, or any other object or structure at any time between 10:00 pm and 6:00 am. Any animal that is tied or leashed at other times must be tied or leashed so that it does not become entangled and is prevented from reaching within ten (10) feet of any property line.

4-1-21 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.

4-1-22 LIVESTOCK NEGLECT. It is unlawful for a person who impounds or confines livestock in any place to fail to provide the livestock with care consistent with customary animal husbandry practices or to deprive the livestock of necessary sustenance or to injure or destroy livestock by any means which causes pain or suffering in a manner inconsistent with customary animal husbandry practices.

4-1-23 ABANDONMENT OF ANIMALS. No person shall abandon any animal within the City limits. Abandonment shall include ceasing to provide control over, shelter, food and water for an animal without having made responsible arrangements for such care, custody, and physical control to be provided by another person.

(Code of Iowa, Sec. 7107B.8)

4-1-24 REGULATION OF HORSES. It is unlawful for any person to ride, lead, or drive a horse or horses upon any public sidewalk or upon any other portion of a public street right-of-way other than that portion thereof designated for use by vehicular traffic. Any person riding, leading or driving any horse within the City limits shall be subject to all applicable City ordinances, rules of the road and all regulations governing traffic upon the public street, avenues, alleys and other public places within the City. Furthermore, all persons riding, leading or driving any horses which defecate anywhere within the City limits, shall, without delay, remove the feces to a garbage or trash receptacle after first placing said feces in a plastic bag or other impermeable bag and sealing said bag by tying it securely using a “twist tie”, tape, or similar device or shall otherwise dispose of the feces in a sanitary manner.

4-1-25 PET AWARDS PROHIBITED.

1. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:
  - a. A prize for participating in a game.
  - b. A prize for participating in a fair event.
  - c. An inducement or condition for visiting a place of business or attending an event sponsored by a business.
  - d. An inducement or condition for executing a contract which includes provisions unrelated to ownership, care of disposition of the pet.
2. This section does not apply to any of the following:
  - a. A pet shop licensed pursuant to Section 162.5 of the Code of Iowa if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.

- b. Youth programs associated with 4-H clubs; Future Farmers of America; the Izak Walton League of America or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsman's Federation.

**TITLE V HUMAN DEVELOPMENT - EDUCATION AND CULTURE**

**CHAPTER 1 LIBRARY SERVICES**

- 5-1-1 Public Library
- 5-1-2 Library Trustees
- 5-1-3 Qualifications of Trustees
- 5-1-4 Organization of the Board
- 5-1-5 Powers and Duties
- 5-1-6 Power to Contract with Others for the Use of the Library
- 5-1-7 Non-Resident Use of the Library
- 5-1-8 Library Accounts
- 5-1-9 Annual Report
- 5-1-10 Council's Responsibilities

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

5-1-2 LIBRARY TRUSTEES. The board of trustees of the Shelby Historical Library, hereinafter referred to as the board, consists of four resident members. All board members shall be appointed by the City Council.

(Code of Iowa, Sec. 392.5)

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

5-1-4 ORGANIZATION OF THE BOARD.

1. Terms of office. All appointments to the board shall be for six (6) years, except to fill vacancies. Each term shall commence on July first. Appointments shall be made every two (2) years of one-third the total number as near as possible, to stagger the terms.

(Code of Iowa Sec. 336.5)

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

(Code of Iowa Sec. 336.6)

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

(Code of Iowa Sec. 336.7)

5-1-5 POWERS AND DUTIES. The board shall have and exercise the following powers and duties:

1. To meet and elect from its members a president, a secretary, and such other officers as it deems necessary.  
(Code of Iowa Sec. 336.8(1))
2. To have charge, control and supervision of the public library, its appurtenances, fixtures and rooms containing the same.  
(Code of Iowa Sec. 336.8(2))
3. To direct and control all the affairs of the library.
4. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall have been fixed and approved by a majority of the members of the board voting in favor thereof.  
(Code of Iowa Sec. 336.8(3))
5. To remove by a two-thirds vote of the board the librarian and provide procedures for the removal of assistants or employees for misdemeanor, incompetency or inattention to duty, subject, however, to the provisions of Chapter 35C, Code of Iowa.  
(Code of Iowa Sec. 336.8(4))
6. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other library materials, furniture, fixtures, stationery and supplies for the library within budgetary limits set by the board.  
(Code of Iowa Sec. 336.8(5))
7. To authorize the use of the library by non-residents of the City and to fix charges therefor.  
(Code of Iowa Sec. 336.8(6))
8. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with Ordinances and the law, for the care, use, government and management of the library and the business of the board, fixing and enforcing penalties for violations.  
(Code of Iowa Sec. 336.8(7))
9. To have exclusive control of the expenditure of all funds allocated for library purposes by the City Council, and of all monies available by gift or otherwise for the erection of library buildings, and of all other monies belonging to the library including fines and rentals collected, under the rules of the board.  
(Code of Iowa Sec. 336.8(8))
10. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the library; to

execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the library.

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

11. To keep a record of its proceedings.
12. To enforce the performance of conditions of gifts, donations, devises and bequests accepted by the City. The board shall enforce performance by taking action against the City Council.
13. To have authority to make agreements with the local County historical associations, where such exists, and to set apart the necessary room and to care for such articles as may come into the possession of the association. The trustees are further authorized to purchase necessary receptacles and materials for the preservation and protection of such articles as are in their judgment of a historical and educational nature and pay for the same out of funds allocated for library purposes.  
(Code of Iowa Sec. 336.17)
14. Meetings. The Board shall convene at the call of any member for business which said member deems necessary to consider.

#### 5-1-6 POWER TO CONTRACT WITH OTHERS FOR THE USE OF THE LIBRARY.

1. Contracting. The board may contract with any other boards of trustees of free public libraries, any other City, school corporation, private or semi-private organization, institution of higher learning, township, or County, or with the trustees of any County library district for the use of the library by their respective residents.  
(Code of Iowa, Sec. 336.18(1))
2. Termination. Such a contract may be terminated at any time by mutual consent of the contracting parties. It also may be terminated by a majority vote of the electors represented by either of the contracting parties. Such a termination proposition shall be submitted to the electors by the governing body of a contracting party on a written petition of not less than five (5) percent in number of electors who voted for governor in the territory of the party at the last general election. The petition must be presented to the governing body not less than forty (40) days before the election. The proposition may be submitted at any election provided by law that is held in the territory of the party who is seeking to terminate the contract.

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

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

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

5-1-8 LIBRARY ACCOUNTS. All money appropriated by the City Council from the general fund for the operation and maintenance of the library shall be set aside in an account for the library. Expenditures shall be paid for only on orders of the board, signed by its president and secretary. The warrant writing officer is the City Clerk.

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

5-1-10 COUNCIL'S RESPONSIBILITIES. The Council shall provide access to the Council Chambers to members of the Board at any time that it is determined that the City offices are open, for the use of tables, lights, etc. The Council shall review the annual report of the Board and may make suggestions that the Council may believe good for the functioning of the Board. The Council shall see that a membership of four (4) is always maintained on the Board.

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

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

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 1 MOBILE HOME REGULATION

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

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

1. “Factory-built structure” means any structure which is, wholly or in substantial part, made, fabricated, formed, or assembled in manufacturing facilities for installation, or assembly and installation, on a building site. “Factory-built structure” includes the terms “mobile home,” “manufactured home”, and “modular home.”  
(Code of Iowa, Sec. 103A.3(8))
2. “Manufactured home” means a factory-built structure built under authority of 42 U.S.C. Section 5403, that is required by federal law to display a seal from the United States Department of Housing and Urban Development, and was constructed on or after June 15, 1976.  
(Code of Iowa, Sec. 435.1(3))
3. “Mobile home” means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. Mobile homes were constructed before June 15, 1976.  
(Code of Iowa, Sec. 435.1(5))
4. “Mobile home park” means a site, lot, field, or tract of land upon which three or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.  
(Code of Iowa, Sec. 435.1(6))
5. “Modular home” means a factory-built structure which is manufactured to be used as a place of human habitation, is constructed to comply with the Iowa State Building Code for modular factory-built structures.  
(Code of Iowa, Sec. 435.1(7))

6-1-2 LOCATION OF MOBILE HOMES. All mobile homes shall be placed or parked in a mobile home park unless permitted otherwise by State law. This section shall not apply to mobile homes parked or placed upon private property as part of a dealer's or a manufacturer's stock not used as a place for human habitation.

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

1. A statement concerning the practicability of location within a local mobile home park.
2. A description of sanitation facilities contained within the mobile home and those facilities available at the proposed location.
3. A statement of the desired duration of the special permit.

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

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

6-1-6 BUILDING REQUIREMENTS. All mobile homes, modular homes and factory built homes as defined in the Iowa Code located outside a mobile home park shall comply with all Ordinances relating to residences or homes in the community and shall be affixed to a permanent perimeter foundation unless it is incompatible with the structural design of the home. Any home located outside a mobile home park on the date this ordinance takes effect shall be exempt from the permanent foundation requirement. (The effective date of this Ordinance is February 7, 2012).

(Code of Iowa, Sec. 435.26)

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

connections are subject to inspection and approval by city officials and the mobile home dealer shall pay an inspection fee to be set by council resolution. No additional permits shall be required.  
(Code of Iowa, Sec. 322B.3)

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 2 UTILITIES - SANITARY SYSTEM

6-2-1	Definitions	6-2-6	Protection from Damage
6-2-2	Use of Public Sewers Required	6-2-7	Powers and Authority to Inspectors
6-2-3	Private Sewage Disposal	6-2-8	Service Outside the City
6-2-4	Building Sewers and Connections	6-2-9	Penalties
6-2-5	Use of the Public Sewers		

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

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

10. "Properly Shredded Garbage" shall mean the waste from the preparation, cooking, dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.
11. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
12. "Sanitary Sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
13. "Sewage" shall mean a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and stormwaters as may be present.
14. "Sewage Treatment Plant" shall mean any arrangement of devices and structures used for treating sewage.
15. "Sewage Works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
16. "Sewer" shall mean a pipe or conduit for carrying sewage.
17. "Sludge" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration of flows during normal operation.
18. "Storm Drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.
19. "Superintendent" shall mean the Superintendent of sewage works and/or of water pollution control of the City of Shelby or the Superintendent's authorized deputy, agent, or representative.
20. "Suspended Solids" shall mean solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
21. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

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

1. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.
2. It shall be unlawful to discharge to any natural outlet within the City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.  
(Code of Iowa, Sec. 364.12(3)(f))
3. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
4. It shall be unlawful to connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
5. It shall be unlawful for any person to open or enter any manhole of the sewer system, except by authority of the Superintendent.
6. The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the City, is hereby required at such owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer, and to maintain the same in accordance with the provisions of this Ordinance, 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 within one hundred (100) feet of the property line. Billing for sanitary sewer service shall begin the date of official notice to connect to the public sewer.

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

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

1. Where a public sanitary or combined sewer is not available under the provision of Section 6-2-2(7), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

2. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Superintendent. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Superintendent. A permit and inspection fee of \$25.00 dollars shall be paid to the City at the time the application is filed.
3. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Superintendent. The Superintendent shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Superintendent when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Superintendent.
4. The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Natural Resources of the State of Iowa and the County Health Department. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
5. At such times as a public sewer becomes available to a property served by a private sewage disposal system, as provided in 6-2-2(4), a direct connection shall be made to the public sewer in compliance with this Ordinance, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

(Code of Iowa, Sec. 364.12(3)(f))
6. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.
7. No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County Health Officer.
8. When a public sewer becomes available, the building sewer shall be connected at the building owner's expense, to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

(Code of Iowa, Sec. 364.12(3)(f))
9. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

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

1. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Superintendent.
2. There shall be two (2) classes of building sewer permits: (a) for residential and commercial service, and (b) for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall make application on a special form furnished by the City. The permit application shall be set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty days after the issuance of the permit, except that when a property owner makes sufficient showing the due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters. A permit and inspection fee of \$10.00 dollars for a residential or commercial building sewer permit and \$25.00 dollars for an industrial building sewer permit shall be paid to the City at the time the application is filed. In addition, there shall be a connection charge in the amount of fifty dollar (\$50.00) paid to reimburse the City for costs borne by the City in making sewer service available to the property served.

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

3. All cost and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
4. A separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

5. Old building sewers may be used in connection with new building sewers only when they are found, upon examination and testing by the Superintendent, to meet all requirements of this Ordinance. The Superintendent may require that the old sewer be excavated for the purpose of facilitating inspection. No old cesspool or septic tank shall be connected to any portion of a building sewer that is also connected to the public sewer. Cesspools and septic tanks shall be located, and drained in a manner approved by the Superintendent and removed or filled with sand, crushed rock or any other solid material approved by the Superintendent, except as exempted by the Superintendent.
6. All installations of building sewers and connections to the public sewer shall be made by a plumber approved by the City. The Superintendent shall have the power to suspend the approval of any plumber for violation of any of the provisions of these Sanitary Sewer chapters; a suspension, unless revoked, shall continue until the next regular meeting of the Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the Council meeting at which the plumber will be granted a hearing. At this Council meeting the Superintendent shall make a written report to the Council stating the reasons for the suspension, and the Council, after fair hearing, shall affirm or revoke the suspension or take any further action that is necessary and proper.
7. The building sewer shall be constructed in accordance with applicable portions of the last published (State Plumbing Code of Iowa), applicable specifications of the American Society for Testing and Materials (ASTM) and applicable portions of the Water Pollution Control Federation (WPCF) Manual of Practice No. 9.
  - a. Each connection to the public sewer shall be made to the fittings designated for that property. If a fitting in the public sewer is not available for the designated property, the connection shall then be made under the direct supervision of the Superintendent. Connections to the public sewer not made to an existing wye or tee shall be made by a hole cutter or careful chisel cutting. The connection shall be rendered water and gas tight, by use of rubber gaskets. The building sewer shall not protrude into the public sewer.
  - b. All building sewers shall be constructed of the following materials conforming to the indicated standards:

#### **Vitrified Clay Pipe VCP**

- (1) Pipe and Fittings - ASTM C-700 "Standard Specification or Vitrified Clay Pipe, Extra Strength, Standard Strength and Perforated."

- (2) Coupling and Joints - ASTM C-425 "Standard Specification for Compression Joints for Vitrified Clay Pipe and Fittings".

### **Extra Heavy Cast Iron Soil Pipe**

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

### **Polyvinyl Chloride (PVC)**

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

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

Minimum wall thickness:

- 4" - 0.125"
- 6" - 0.180"
- 8" - 0.240"
- 10" - 0.300"

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

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

- c. When possible, building sewers should be laid at least ten (10) feet horizontally from a water service. The horizontal separation may be less, provided the water service line is located at one side and at least twelve (12) inches above the top of the building sewer.
- d. Building sewers shall be sized for the peak expected sewage flow from the building with a minimum building sewer size of four (4) inches.
- e. Unless otherwise authorized, all building sewers shall have a grade of not less than one - eighth (1/8) inch per foot. A grade of one-fourth (1/4) inch per foot shall be used wherever practical. Minimum velocity shall be 2.00 feet per second with the sewer half full.

- f. All excavation shall be open trench work unless authorized by the Superintendent. The foundation in the trench shall be formed to prevent any subsequent settlement of the pipes. If the foundation is good firm earth, the earth shall be pared or molded to give a full support to the lower quadrant of each pipe. Bell holes shall be dug. Where the floor of the trench is of hard or rocky material, the trench shall be excavated to four inches below the pipe and brought back to the proper grade with gravel, coarse sand or similar material so as to provide a firm foundation and uniform support for the building sewer line. Backfilling shall be placed in layers and solidly tamped or packed up to two feet above the pipe. Back-filling shall not be done until final inspection is made by the Superintendent. Building sewers shall be laid straight at uniform grade between connections or fittings.
- g. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth of cover above the sewer shall be sufficient to afford protection from frost.
- h. 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.
- i. No building sewer shall be laid parallel to, or within three (3) feet of any bearing wall, which might thereby be weakened.
- j. No sewer connection shall be laid so that it is exposed when crossing any watercourse. Where an old watercourse must of necessity be crossed or where there is any danger of undermining or settlement, cast iron soil pipe or vitrified clay sewer pipe thoroughly encased in concrete shall be required for such crossings. Such encasement shall extend at least six ( 6) inches on all sides of the pipe. The cast iron pipe or encased clay pipe shall rest on firm, solid material at either end.
- k. No connection for any residence, business or other structure with any sanitary sewer shall be made unless the basement floor is poured, or in the case of a building with a slab or crawl space, unless the ground floor is installed with the area adjacent to the foundation of such building cleared of debris and backfilled. The backfill shall be well compacted and graded so that the drainage is away from the foundation. Prior to the time the basement floor is poured, or the first floor is installed in buildings without basements, the sewer shall be plugged and the plug shall be sealed by the Superintendent. Any accumulation of water in any excavation or basement during construction and prior to connection to the sanitary sewer shall be removed by means other than draining into the sanitary sewer.
- l. Cleanouts shall be provided for each change in direction or grade if the change exceeds 45 degrees and at least every 100 feet.

8. Grease, oil, sludge and sand interceptors shall be provided by gas and service stations, convenience stores, car washes, garages, and other facilities when, in the opinion of the Superintendent, they are necessary for the proper handling of such wastes that contain grease in excessive amounts or any flammable waste, sand or other harmful ingredients. Such interceptors shall not be required for private living quarters or dwelling units. When required, such interceptors shall be installed in accordance with the following:
  - a. Design and Location. All interceptors shall be of a type and capacity as provided by the Iowa Public Health Bulletin and Division 4 of the State Building Code, to be approved by the Superintendent, and shall be located so as to be readily and easily accessible for cleaning and inspection.
  - b. Construction Standards. The interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers that shall be gastight and watertight.
  - c. Maintenance. All such interceptors shall be maintained by the owner at the owner's expense and shall be kept in continuously efficient operations at all times.
9. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.
10. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. The depth shall be sufficient to afford protection from frost. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the said Superintendent. Pipe laying and backfill shall be performed in accordance with A.S.T.M. Specification (Designation C12). No backfill shall be placed until the work has been inspected by the Superintendent or the Superintendent's representative. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

11. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
12. The connection of the building sewer into the public sewer shall conform to the requirements of the Plumbing Code or other applicable rules and regulations of the City, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
13. Each and every part of the building sewer shall be inspected and approved by the Superintendent before being concealed or back-filled. The applicant for the building sewer permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Superintendent or the Superintendent's representative.
14. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City.
15. The City shall, in no event, be held responsible for claims made against it by reason of the breaking of any mains or service pipes, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.
16. The premises receiving sanitary sewer service, shall at all reasonable hours, be subject to inspection by duly authorized personnel of the City.
17. The Owner of the property served by a building sewer shall be responsible for the operation, maintenance, repair, blockage, surface replacement, and any damage resulting from operation, maintenance repair and blockage of said building sewer, from the point of connection with the building drain to the Public Sewer.
18. Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

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

1. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, subsurface drainage, including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Applications may be cancelled and/or sewer service discontinued by the City for any violation of any rule, regulation or condition of service, and especially for any of the following reasons:
  - a. Misrepresented in the application as to the property or fixtures to be serviced by the sanitary sewer system.
  - b. Non-payment of bills.
  - c. Improper or imperfect service pipes and fixtures, or failure to keep same in suitable state of repair.
2. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.
3. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
  - a. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
  - b. Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/l as CN in the wastes as discharged to the public sewer.
  - c. Any waters or wastes having a ph lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

- d. Solid or viscous substances in quantities of such size capable of causing obstruction to the flow of sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
  - e. Any water or wastes having (1) a 5-day bio-chemical oxygen demand greater than 300 parts per million by weight, or (2) containing more than 350 parts per million by weight, or suspended solids, or (3) having an average daily flow greater than 2 percent of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide at the owner's expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to 300 parts per million by weight, or (2) reduce the suspended solids to 350 parts per million by weight, or (3) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.
4. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:
- a. Any liquid or vapor having a temperature higher than one hundred fifty (150) F (65 C).
  - b. Any water or wastes containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150 F) (0 and 65 C).
  - c. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.

- d. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- e. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.
- f. Any waters or wastes containing phenols or other taste-or-odor-producing substances, -in such concentrations exceeding limits which may be established by the Superintendent as necessary after treatment of the composite sewage, to meet with requirements of the State, Federal, or other public agencies with jurisdiction for such discharge to the receiving waters.
- g. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.
- h. Any waters or wastes having a pH in excess of 9.5.
- i. Materials which exert or cause:
  - (1) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - (2) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - (3) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - (4) Unusual volume of flow or concentration of waters constituting "slugs" as defined herein.
- j. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- k. 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.

1. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.
  
5. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in **6-2-5(4)**, and which in the judgment of the Superintendent, may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:
  - a. Reject the wastes by requiring disconnection from the system,
  - b. Require pretreatment to an acceptable condition for discharge to the public sewers.
  - c. Require control over the quantities and rates of discharge, and/or
  - d. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provision of 6-2-5(10) of this article.

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

6. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.
  
7. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.
  
8. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the

Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

9. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property. (The particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analyses are obtained from 24 hour composite of all outfalls where pH's are determined from periodic grab samples).
10. No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment, therefore, by the industrial concern.

6-2-6 PROTECTION FROM DAMAGE. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Code of Iowa, Sec. 716.1)

6-2-7 POWERS AND AUTHORITY TO INSPECTORS.

1. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Ordinance. The Superintendent or the Superintendent's representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
2. While performing the necessary work on private properties referred to in 6-2-7(1), the Superintendent or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the City employees and the City shall indemnify the company against loss or damage to its property by the City employees and against liability claims and

demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 6-2-5(8).

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

6-2-8 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

6-2-9 PENALTIES.

1. Any person found to be violating any provision of this Ordinance except Section 6-2-6 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.
2. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.
3. Any person violating any of the provisions of this Ordinance is liable to the City for any expense, loss, or damage occasioned the City by reason of such violations.

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

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 3 UTILITIES - WATER SYSTEM**

- 6-3-1 Enforcement
- 6-3-2 Adoption of State Plumbing Code
- 6-3-3 License Required
- 6-3-4 Mandatory Connections
- 6-3-5 Permit
- 6-3-6 Fee for Permit
- 6-3-7 Water Supply Control
- 6-3-8 Making the Connection
- 6-3-9 Excavations
- 6-3-10 Inspection and Approval
- 6-3-11 Completion by the City
- 6-3-12 Installation of Water Service Pipe
- 6-3-13 Responsibility for Water Service Pipe
- 6-3-14 Failure to Maintain
- 6-3-15 Shutting Off the Water Supply
- 6-3-16 Operation of Curb Valves and Hydrants
- 6-3-17 Water Use Metered
- 6-3-18 Fire Sprinkler Systems
- 6-3-19 Location of Meters
- 6-3-20 Meter Setting
- 6-3-21 Meter Costs
- 6-3-22 Meter Repairs
- 6-3-23 Right of Entry
- 6-3-24 Meter Installation Fee
- 6-3-25 Irrigation Meters
- 6-3-26 Meter Accuracy and Test

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

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

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

6-3-3 **LICENSE REQUIRED.** All installation of water service pipes and connections to the municipal water system shall be made by a plumber licensed by this City. The Superintendent shall have the power to suspend the license of any plumber for violation of any of the provisions of this Ordinance. A suspension, unless revoked, shall continue until the next regular meeting of the City Council. The Superintendent shall notify the plumber immediately by personal written notice of the suspension, the reasons for the suspension, and the time and place of the City Council meeting at which the plumber will be granted a hearing. At this City Council meeting the Superintendent shall make a written report to the City Council stating the Superintendent's

reasons for the suspension, and the City Council, after fair hearing, shall revoke the suspension or take any further action that is necessary and proper. The plumber shall provide a surety bond in the sum of one thousand dollars (\$1,000.00) secured by a responsible surety bonding company authorized to operate within the State, conditioned to indemnify and save the City harmless against all losses or damages that may arise from or be occasioned by the making of connections to the water system or excavations therefor or by carelessness, negligence or unskillfulness in making the same. Such bond shall remain in force and must be executed for a period of one year except that on such expiration it shall remain in force as to all penalties, claims and demands that may have accrued thereunder prior to such expiration. In lieu of a surety bond, a cash deposit of one thousand dollars (\$1,000.00) may be filed with the City.

6-3-4 MANDATORY CONNECTIONS. All residences and business establishments within the City limits intended or used for human habitation, occupancy or use shall be connected to the public water supply if it is reasonably available and if the building is not furnished with pure and wholesome water from some other source.

6-3-5 PERMIT. Before any person, firm, corporation or other association shall make a connection with the public water system, a written permit must be obtained from the Superintendent. The application for the permit shall be filed with the Superintendent on blanks furnished by the Superintendent. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses shall be allowed except by written permission of the Superintendent. The Superintendent shall issue the permit, bearing the Superintendent's signature and stating the time of issuance, if the proposed work meets all the requirements of this Ordinance and if all fees required under this Ordinance have been paid. Work under any permit must be begun within six (6) months after it is issued except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The Superintendent may at any time revoke the permit for any violation of this Ordinance and require that the work be stopped. The owner or plumber may appeal such action in the manner provided in Section 6-3-3 of this Ordinance.

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

6-3-6 FEE FOR PERMIT. Before any permit is issued the person who makes the application shall pay a fee to the (City Clerk) to cover the cost of issuing the permit and supervising, regulating and inspecting the work. In addition there shall be a connection charge paid before issuance of a permit to reimburse the City for costs borne by the City in making water service available to the property served. The fees shall be established by Resolution. (See footnote at end of chapter)

6-3-7 WATER SUPPLY CONTROL. The plumber who makes the connection to the municipal water system shall install a main shut-off valve of the inverted key type on the water-service pipe near the curb with a suitable lock of a pattern approved by the Superintendent. The shut-off valve

shall be covered with a heavy metal cover having the letter "W" marked thereon, visible and even with the pavement or ground.

The plumber also shall install a shut-off valve and waste cock on every service pipe inside the building near the entrance of the water-service pipe into the building; this must be located so that the water can be shut off conveniently and the pipes drained. Where one service pipe is installed to supply more than one customer, there shall be separate shut-off valves inside the building for each customer so that service to one customer can be shut off without interfering with service to the others.

**6-3-8 MAKING THE CONNECTION.** Any connection with the municipal water system must be made under the direct supervision of the Superintendent or the Superintendent's authorized assistant 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 Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.
2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a three-fourths (3/4) inch tap. All mains of over six (6) inches in diameter shall receive no larger than a one inch tap. Where a larger connection than a one inch tap is desired, two (2) or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the *top* half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.
3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.
4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.
5. Abandoned Connections. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

**6-3-9 EXCAVATIONS.** Excavations to do work under this Ordinance shall be dug so as to occasion the least possible inconvenience to the public and to provide for the passage of water along the gutter. All such excavations shall have proper barricades at all times, and warning lights placed from one-half hour before sunset to one-half hour after sunrise. In refilling the excavation the earth must be laid in layers and each layer tamped thoroughly to prevent settlement, and this work, and any

street, sidewalk, pavement or other public property that is affected, must be restored to as good a condition as it was previous to the excavation. The plumber must maintain the affected area in good repair to the satisfaction of the City Council for three months after refilling. All water service pipes must be laid so as to prevent rupture by settlement or freezing. No excavation shall be made within six (6) feet of any laid water or sewer 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.

**6-3-10 INSPECTION AND APPROVAL.** All water-service pipes and their connections to the municipal water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or owner must proceed immediately to correct the work so that it will meet with the Superintendent's approval. Every person who uses or intends to use the municipal water system shall permit the Superintendent or the Superintendent's authorized assistants to enter the premises to inspect and make necessary alterations or repairs at all reasonable hours and on proof of authority.

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

**6-3-11 COMPLETION BY THE CITY.** Should any excavation be left open or partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the municipal water system, or should the work be improperly done, the Superintendent shall have the right to finish or correct the work, and the City Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before the plumber can receive another permit, and the plumber's bond or cash deposit required by the Plumbing Ordinance 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(3)(h))

**6-3-12 INSTALLATION OF WATER SERVICE PIPE.** Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

**6-3-13 RESPONSIBILITY FOR WATER SERVICE PIPE.** All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the curb valve to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

**6-3-14 FAILURE TO MAINTAIN.** When any portion of the water service pipe which is the responsibility of the property owner becomes defective or creates a nuisance and the owner fails to correct such nuisance the City may do so and assess the costs thereof to the property.

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

6-3-15 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

6-3-16 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Superintendent to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

6-3-17 WATER USE METERED. All water furnished customers shall be measured through meters obtained from the City and installed by the City.

6-3-18 FIRE SPRINKLER SYSTEMS - EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open

6-3-19 ALL LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

6-3-20 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

6-3-21 METER COSTS. The full cost of any meter and remote reader shall be paid to the City by the property owner or customer prior to the installation of any such meter by the City, or, at the sole option of the City, the property owner or customer may be required to purchase and install the meter in accordance with requirements established by the City.

6-3-22 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

6-3-23 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

6-3-24 METER INSTALLATION FEE. There shall be a fee charged to the property owner for each new installation of a water meter in accordance with the schedule of such fees approved by resolution of the Council.

6-3-25 IRRIGATION METERS. A citizen may choose to install an irrigation meter at his/her own expense to meter water used for outdoor and swimming pool uses that do not discharge into the city's sewer system.

The irrigation meters shall be purchased from the City at a rate equal to the cost expended by the City. Payment in full shall be made to the City prior to receiving the meter.

The total usage recorded on the irrigation meter shall be subtracted from the main meter's usage to calculate water usage without sewer.

Irrigation meters will be considered part of the water system and shall be governed and enforced in accord with this Chapter.

Residential homes having an irrigation meters will be charged a monthly fee of two dollars (\$2.00) for use of such meter plus cost of water in accordance with Section 6-5-8.

6-3-26 METER ACCURACY AND TEST. All water shall be supplied through meters that accurately measure the amount of water supplied to any building. The Superintendent or the Superintendent's assistant shall make a test of the accuracy of any water meter at any time when requested in writing. If it is found that such meter overruns to the extent of 5 percent or more, the cost of the tests shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not more than 5% of the total water bill and not for a period longer than 3 months. If the meter is found to be accurate or slow less than 5 percent fast, the patron shall pay a testing charge of \$25.00.

Compulsory Check. Every meter shall be removed from service at least once each five years and thoroughly tested for accuracy. Any meter found inaccurate beyond a tolerance of 1.5 percent shall not be returned to service until properly adjusted.

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

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 4 UTILITIES - REFUSE COLLECTION

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

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

1. "Collector" means any person authorized to gather solid waste from public and private places.
2. "Director" means the director of the State Department of Natural Resources or any designee
3. "Discard" means to place, cause to be placed, throw, deposit or drop
4. "Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.
5. "Garbage" Includes all animal, fruit, vegetable, and other refuse resulting from the preparation of food and drink.
6. "Landscape waste" means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery and yard trimmings.  
(IAC, 567-20.2[455B])
7. "Litter" means any garbage, rubbish, trash, refuse, waste materials or debris.  
(Code of Iowa, Sec. 455B.361[1])
8. "Owner" means in addition to the record titleholder any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several

9. "Refuse" includes all garbage, rubbish, ashes, or other substances offensive to sight or smell, dangerous to the public health or detrimental to the best interests of the community except dead animals not killed for food.
10. "Residential premises" means a single-family dwelling and any multiple-family dwelling up to and including two (2) separate dwelling units.
11. "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

12. "Rubbish" includes all other refuse not falling within the term "garbage" except those objects too large to be placed in cans.
13. "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)

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

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

15. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by subsection one of Section 321.1 of the Code of Iowa.

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

6-4-2 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:
  - a. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of not less than twenty (20) gallons or more than thirty-five (35) gallons in nominal capacity, and shall be

leakproof and waterproof. The total weight of any container and contents shall not exceed seventy-five (75) pounds. Disposable containers shall be kept securely fastened and shall be of sufficient strength to maintain integrity when lifted, and reusable containers shall be in conformity with the following:

(1) Be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container;

(2) Have handles, bails or other suitable lifting devices or features;

(3) Be of a type originally manufactured for the storage of residential waste with tapered sides for easy emptying;

(4) Be of lightweight and sturdy construction. Galvanized metal containers, rubber or fiberglass containers and plastic containers which do not become brittle in cold weather may be used.

- b. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.
2. Storage of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner has been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of residential and commercial premises shall be responsible for proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.
3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twenty-four (24) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.
4. Nonconforming Containers. Solid waste containers which are not adequate will be collected together with their contents and disposed of after due notice to the owner.

6-4-3 ADMINISTRATION. Administration of this chapter shall be by the Superintendent of refuse, or such employee designated by the Superintendent.

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

6-4-4 STORAGE. All garbage must be drained. All rubbish shall be placed in a can except as otherwise provided.

6-4-5 COLLECTIONS. All garbage and rubbish shall be taken from dwellings at least once each week and from public establishments as frequently as the City Council may require, but not less than once each week.

All cans for garbage and rubbish shall be kept as provided in the rules and regulations for collection of refuse.

6-4-6 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste from residential premises for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

6-4-7 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

6-4-8 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

6-4-9 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack, except that open burning is permitted in the following circumstances:

(IAC, 567-23.2[455B] and 567-100.2)

1. Disaster Rubbish. The open burning of rubbish, including landscape waste, for the duration of the community disaster period in cases where an officially declared emergency condition exists.

(IAC, 567-23.2[3a])

2. Trees and Tree Trimmings. The open burning of trees and tree trimmings at a City-operated burning site, provided such burning is conducted in compliance with the rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3b])

3. Flare Stacks. The open burning or flaring of waste gases, provided such open burning or flaring is conducted in compliance with applicable rules of the State Department of Natural Resources.

(IAC, 567-23.2[3c])

4. Landscape Waste. The disposal by open burning of landscape waste originating on the premises. However, the burning of landscape waste produced in clearing, grubbing and construction operations shall be limited to areas located at least one-fourth (1/4) mile from any building inhabited by other than the landowner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste.

(IAC, 567-23.2[3d])

5. Recreational Fires. Open fires for cooking, heating, recreation, and ceremonies, provided they comply with the limits for emission of visible air contaminants established by the State Department of Natural Resources. Rubber tires shall not be burned in a recreational fire.

(IAC, 567-23.2[3e])

6. Back Yard Burning. The open burning of residential waste on the property where such waste is generated, at dwellings of four-family units or less.

(IAC, 567-23.2[3j] and 567-20.2[455B])

7. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the training fires are conducted in compliance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3g])

8. Pesticide Containers and Seed Com Bags. Paper or plastic pesticide containers and seed com bags resulting from farming activities occurring on the premises if burned in accordance with rules established by the State Department of Natural Resources.

(IAC, 567-23.2[3h])

9. Agricultural Structures. The open burning of agricultural structures if in accordance with rules and limitations established by the State Department of Natural Resources:

(IAC, 567-23.2[3i])

10. Variance. Any person wishing to conduct open burning of materials not permitted herein may make application for a variance to the Director

6-4-10 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush and trees. Yard waste does not include tree stumps.

6-4-11 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in

any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

6-4-12 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director. However, this section does not prohibit the use of dirt, stone, brick or similar inorganic material for fill, landscaping, excavation, or grading at places other than a sanitary disposal project.

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

6-4-13 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)

(IAC, 567-102.14[2] and 400-27.14[2])

6-4-14 SANITARY DISPOSAL PROJECT DESIGNATED. The sanitary landfill facilities operated by Shelby County are hereby designated as the official "Public Sanitary Disposal Project" for the disposal of solid waste produced or originating within the City.

6-4-15 COLLECTION SERVICE. The City shall provide by contract the collection of solid waste, except bulky rubbish as provided in Section 6-4-18 from residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of solid waste produced upon such premises.

6-4-16 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

6-4-17 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

6-4-18 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council

6-4-19 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

6-4-20 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.
2. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.
3. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.
4. 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.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 5 UTILITIES - ELECTRIC

6-5-1 Purpose	6-5-5 Rates
6-5-2 Policy Direction	6-5-6 Automatic Rate Adjustment
6-5-3 Superintendent	6-5-7 Rate Review
6-5-4 Service Rules and Regulations	

6-5-1 PURPOSE. The purpose of this chapter is to provide for the operation of the municipally owned electric system.

6-5-2 POLICY DIRECTION. The Mayor and Council shall establish appropriate rules and regulations governing the operation and maintenance of the electric system.

6-5-3 SUPERINTENDENT. The Electric Superintendent shall be responsible for execution of policies governing the system as established by the Council.

6-5-4 SERVICE RULES AND REGULATIONS. The rules and regulations for electric service are contained in the *Municipal Electric Utility of the City of Shelby Tariff*, on file with the Utilities Division of the Iowa Department of Commerce. Also, an official copy of the rules and regulations as adopted is now on file in the office of the Clerk. The rules and regulations contained therein shall apply to all users of the municipal electric system.

6-5-5 RATES. The monthly rates for electric service shall be as follows:

Residential Service, Commercial/Government Class:

Rate Schedule RESI 1. This rate is applicable to residential customers and individually metered apartments including use -of motors not more than 5 hp individual capacity. Water heating units shall not exceed 5 kw simultaneous capacity. Space heating and air conditioning shall be served under this rate schedule. The type of service is single-phase, 60 Hertz, at available secondary voltages. The monthly rates are:

Residential Class

Customer Charge	\$13.00
Energy Charge:	
June-September	\$0.105
October-May	
0-1,000 kwh	\$0.097
Over 1,000 kwh	\$0.075

**Commercial**

Customer Charge	\$26.00
Energy Charge:	
June-September	\$0.102
October- May	\$0.091

**Large Commercial (Over 25kW)**

Customer Charge	\$36.00
Demand Charge – per kW	
June – September	\$10.00
October- May	\$8.00
Energy Charge:	
All kWhs	\$0.059

6-5-6 AUTOMATIC RATE ADJUSTMENT. Rates for service provided above shall be adjusted in the manner and method established for sliding scale or automatic adjustment of rates and charges as provided in the tariff on file with the Utilities Division of the Iowa Department of Commerce. Adjustments made hereunder shall be approved by resolution of the council which resolution shall be set out in the published proceedings of the Council.

6-5-7 RATE REVIEW. The City Council will review the electric rates and recommend changes at the July Council meeting on even numbered years.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 6 UTILITIES - BILLING CHARGES

6-6-1	Utility Defined	6-6-10	Rate of Sewer Rent and Manner of Payment
6-6-2	Districts	6-6-11	Determination and Payment of Sewer Rent From Premises With Private Water Systems
6-6-3	Disposition of Fees and Charges	6-6-12	Temporary Vacancy
6-6-4	Billing, Penalty	6-6-13	Rate Review
6-6-5	Discontinuing Services, Fees	6-6-14	Special Agreements Permitted
6-6-6	Residential Rental Property		
6-6-7	Customer Guarantee Deposits		
6-6-8	Water Rates		
6-6-9	Rates Outside the City		

6-6-1 UTILITY DEFINED. For use in this chapter, utility is the sewer, water, and refuse collection systems operated by the City.

6-6-2 DISTRICTS. There shall be one sewer and water district which encompasses all of the City of Shelby, Iowa.

6-6-3 DISPOSITION OF FEES AND CHARGES. All money received under this chapter shall be deposited in the City treasury not later than the last day of the month in which it was received and a written report of the amount and source of the fees and charges shall be on file with the City Clerk.

6-6-4 BILLING, PENALTY. Water service shall be billed as part of a combined service account, payable in accordance with the following:

1. The Clerk shall prepare and issue bills for combined service accounts on the first day of each month.
2. Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth (15th) day of each month.
3. Bills not paid when due shall be considered delinquent. A late payment penalty of one and one-half percent (1.5%) of the amount due shall be added to each delinquent bill.
4. When the fifteenth falls on Saturday or Sunday, the City Clerk shall accept payment on the next office day without penalty.

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

6-6-5 DISCONTINUING SERVICE, FEES.

1. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received

by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail or delivered to the premises and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance. A ten dollar (\$10.00) administrative fee shall be charged to the delinquent customer for issuance of the delinquency notice.

2. If the customer is a tenant, and if the owner or landlord of the property has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.
3. If a hearing is requested by noon of the day preceding the shut off, the Mayor shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. If the Mayor finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.
4. A fee of twenty-five dollars (\$25.00) shall be charged before service is restored to a delinquent customer. If any such service charge is not paid within sixty (60) days from the date it is due, the same shall constitute a lien upon the premises served by said municipal system, which said lien shall be collected in the same manner as taxes. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

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

5. A lien shall not be certified to the County Treasurer for collection unless thirty (30) days prior written notice by ordinary mail of the intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or property lessor of the property has made a written request for notice, the notice shall also be given to the owner. The lien exemption does not apply to delinquent charges for repairs to a water service.

(Code of Iowa, Sec. 384.84 (3))

6. If the property in which there are delinquent utilities owing is sold before the City certifies the lien to the County Treasurer, the City may certify the delinquent utilities against another property located in this state owned by the delinquent user.

(Code of Iowa, Sec. 384.84(3)(a)(3))

6-6-6 RESIDENTIAL RENTAL PROPERTY. For residential rental property where a charge for water service is separately metered and paid directly by the tenant, the rental property is exempt from a lien for those delinquent charges incurred after the property lessor gives written notice to the City that the tenant is liable for the charges and a deposit not exceeding the usual cost of ninety (90) days of water service is paid to the utility. Upon receipt, the City shall acknowledge the notice and deposit. A written notice shall contain the name of the tenant responsible for charges, address of the property that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice and deposit within ten days (10) business days of the change in tenant. When the tenant moves from the rental property, the City shall return the deposit, if the water

service charges are paid in full and the lien exemption shall be lifted from the rental property. The lien exemption for rental property does not apply to charges for repairs to a water service if the repair charges become delinquent.

A lien shall not be certified to the County Treasurer for collection unless thirty (30) days prior written notice by ordinary mail of the intent to certify a lien is given to the account holder of the delinquent account. If the account holder is a tenant, and if the owner or property lessor of the property has made a written request for notice, the notice shall also be given to the owner or property lessor.

(Code of Iowa, Sec. 384.84(3))

6-6-7 CUSTOMER GUARANTEE DEPOSITS. Customer deposits shall be required of all customers who are tenants, or others having no established credit record, and of those who have an unacceptable credit record or who have a prior record of failure to pay water bills rendered. Such deposit shall be equal to the estimated typical bill for the type of use contracted for, and be set to the nearest five (\$5.00) dollars. Deposits of customers having established acceptable credit records for three (3) years shall have their deposits returned. An occurrence or recurrence of a bad payment record may be the occasion for the City Clerk to require a new or larger deposit for the continuation of service.

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

6-6-8 WATER RATES. Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

1. First 1,000 gallons used per month@ \$19.71 (minimum bill).
2. All over 1,000 gallons used per month@ \$.0542000 per gallon.

6-6-9 RATES OUTSIDE THE CITY. Water service shall be provided any customer located outside the corporate limits of the City which the City has agreed to serve at rates one hundred sixty percent (160%) of the rates provided in Section 6-6-8. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council.

(Code of Iowa, Sec. 364.4[2] & 384.84)

6-6-10 RATE OF SEWER RENT AND MANNER OF PAYMENT. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

1. First 1,000 gallons or lesser amount per month@ \$9.00.
2. User fee \$1.50/1,000 gallons, thereafter.

3. In no case shall the minimum service charge be less than \$4.50 per month, which is necessary to retire the indebtedness, operating and maintenance, and reserve necessary for maintaining the sanitary sewer facility

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

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

(Code of Iowa, Sec. 384.84)

**6-6-11 DETERMINATION AND PAYMENT OF SEWER RENT FROM PREMISES WITH PRIVATE WATER SYSTEMS.** A private water system is defined as any non-municipal water system constructed in any manner so as to connect said water system with the plumbing within any residence or building in which a municipal sewer connection has been or by law should be installed.

1. In those special conditions where a private water system is in use by a customer and a connection to the City's water utility system is also used, in addition to the regular water rates provided in Section 6-6-8 and the sewer service charges provided in Section 6-6-10, an additional special rate in the amount of \$15.00 per month shall be imposed.
2. In those special conditions where a private water system is in use by a customer and connection to the City's water system has been disconnected, a special rate for sewer use shall be imposed in the amount of \$15.00 per month.
3. In those special conditions where a private water system is in use by a customer and the customer desires to meter the quantity of water discharged through the City's sewer system, the customer shall provide a meter meeting or exceeding the quality of the meter previously used or in use at said customer's house, building or property, or the quality of meter generally used by the City if no meter was previously used, and the customer shall install said meter as provided in Sections 6-3-17 to 6-3-25, all at the customer's expense. Thereupon, the special rate charge provided above shall not be charged, provided the customer pays the City the amount of \$10.00 per month for purposes of inspecting and testing the quality of water discharged into the sewer system and further provided that the customer makes the private water system available for inspection at convenient intervals.

**6-6-12 TEMPORARY VACANCY.** A property owner may request water service be temporarily discontinued and shut off at the curb valve when the property is expected to be vacant for an extended period of time. There shall be a ten dollar (\$10.00) fee collected for shutting the water off at the curb valve and a ten dollar (\$10.00) fee for restoring service. During a period when service is temporarily discontinued as provided herein there shall

be no minimum service charge. The City will not drain pipes or pull meters for temporary vacancies.

6-6-13 RATE REVIEW. The City Council will review the water and sewer rates and recommend changes at the July Council meeting on even numbered years.

6-6-14 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

Footnote: See Code of Iowa, Sec. 384.38(3) concerning establishing districts and connection fees.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 7 STREET CUTS AND EXCAVATIONS

- |                                   |                                |
|-----------------------------------|--------------------------------|
| 6-7-1 Excavation Permit Required  | 6-7-7 Bond Required            |
| 6-7-2 Application for Permit      | 6-7-8 Insurance Required       |
| 6-7-3 Permit Fees                 | 6-7-9 Responsibility for Costs |
| 6-7-4 Safety Measures             | 6-7-10 Notification            |
| 6-7-5 Backfilling and Restoration | 6-7-11 Rules and Regulations   |
| 6-7-6 Public Convenience          |                                |

6-7-1 EXCAVATION PERMIT REQUIRED. Excavating within the right-of-way of public streets and alleys, and of public grounds, and the cutting of surfacing or pavings of the traveled way therein, shall not be done by any person, firm, association, or corporation without obtaining a permit from the City Clerk.

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

6-7-2 APPLICATION FOR PERMIT. No person shall commence excavation in any public street or public ground until that person has applied to the City Clerk for an excavation permit. Such application shall indicate the location of the excavation, the name and address of the applicant who is to do the work, whether public liability insurance is in force, and that the applicant has checked the underground map of all utilities, and other owners of underground facilities, and that the applicant has notified those persons or companies of the time that excavation will commence. The making of an application shall be deemed notice to the City of the plan to cut the street surfacing or pavements, and to obstruct the public way. Such permits shall not be valid until six hours after receipt unless the Clerk waives this requirement.

In an emergency, authorized persons or companies may commence excavations provided that they shall have made a reasonable effort to inform the City and the utilities whose underground utilities might be involved in any way, and those involved in the excavation shall make written application at the earliest practicable moment. The Clerk may provide on the form for the certification that the applicant has notified all utilities and other parties required by this Ordinance.

6-7-3 PERMIT FEES. The permit fee shall be \$15.00 for the cost of each inspection. A single excavation shall be deemed to constitute all the digging necessary for a single connection, or a cut for installing a main not exceeding 100 feet in length. An additional fee of \$15.00 shall be required for every additional 100 feet, or major fraction thereof, of main excavation. All fees are doubled if excavation commences before a permit is obtained. A separate permit shall be required for each excavation.

6-7-4 SAFETY MEASURES. Any person, firm, or corporation cutting a pavement or surfacing or excavating in the streets shall erect suitable barricades, maintain warning lights from sunset to sunrise each night, and take such other precautions as necessary for the safety of the public, whether vehicles or pedestrians. Vehicles, equipment, materials, excavated material, and

similar items shall likewise be protected by lights and warning devices, such as traffic cones, flags, etc. Where traffic conditions warrant, the party excavating may be required to provide flagmen, if in the judgment of the Chief of Police the public safety requires it. Compliance with City Ordinances and regulations shall not be deemed to waive the requirements that the party excavating shall comply with all the requirements of the labor safety laws and the rules of the Iowa Department of Labor, nor shall any failure be deemed a responsibility of the City.

**6-7-5 BACKFILLING AND RESTORATION.** Any person excavating in the streets shall be responsible for the backfilling of the excavation in accordance with City specifications and the restoration of the pavement or surfacing to as good a condition as that existing prior to the excavation. If any excavator fails to backfill or restore the pavement or surfacing properly within forty-eight hours of the completion of the underground work, the City reserves the right to backfill and resurface or install new paving and charge the cost thereof to the party excavating. If any backfilling or pavement or surfacing restoration is not in accordance with the City specifications, the Utilities Superintendent is authorized to remove such material as is necessary and to backfill and restore the pavement or surfacing properly.

**6-7-6 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.

**6-7-7 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.

**6-7- 8 INSURANCE REQUIRED.** Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

1. Bodily Injury - \$50,000.00 per person; \$100,000.00 per accident.
2. Property Damage- \$50,000.00 per accident.

**6-7-9 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.

**6-7-10 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.

**6-7-11 RULES AND REGULATIONS.** The City Council may by resolution establish such rules and regulations for the manner of making cuts and related matters involving excavations.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 8 STREET USE & MAINTENANCE

- |       |   |        |  |
|-------|---|--------|--|
| 6-8-1 | Removal of Warning Devices              | 6-8-8  | Burning Prohibited                     |
| 6-8-2 | Obstructing or Defacing                 | 6-8-9  | Maintenance of Parking or Terrace      |
| 6-8-3 | Placing Debris On                       | 6-8-10 | Failure to Maintain Parking or Terrace |
| 6-8-4 | Playing In                              |        |  |
| 6-8-5 | Traveling on Barricaded Street or Alley | 6-8-11 | Dumping of Snow                        |
| 6-8-6 | Use for Business Purposes               | 6-8-12 | Driveway Culverts                      |
| 6-8-7 | Washing Vehicles                        | 6-8-13 | Mailboxes Prohibited                   |
|       |   | 6-8-14 | Street Standards                       |

6-8-1 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

6-8-2 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

6-8-3 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

6-8-4 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

6-8-5 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

6-8-6 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

6-8-7 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

6-8-8 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.

6-8-9 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter

6-8-10 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

6-8-11. DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

6-8-12 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

6-8-13 MAILBOXES PROHIBITED. Curbside mailboxes are prohibited within the City limits, unless otherwise approved by the Council and the U.S. Post Office. Rural mail service within the City limits will be delivered to a cluster box provided by the U.S. Post Office and the City.

6-8-14 STREET STANDARDS. Streets repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. On new street construction, minimum C-4 grade portland cement is required. On replacing or repairing existing streets, a minimum M-4 grade portland cement is required.
2. Depth. Depth requirement on all streets (new construction, replace or repair) is a minimum of eight (8) inches thick.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 9 SIDEWALK REGULATIONS

6-9-1 Purpose	6-9-15 Special Assessments for Construction and Repair
6-9-2 Definitions	6-9-16 Notice of Assessment for Repair or Cleaning Costs
6-9-3 Cleaning Snow, Ice, and Accumulations	6-9-17 Hearing and Assessment
6-9-4 Maintenance Responsibility	6-9-18 Billing and Certifying to County
6-9-5 Liability of Abutting Owner	6-9-19 ADAAG Compliance.
6-9-6 Ordering Sidewalk Improvements	6-9-20 Awnings
6-9-7 Repairing Defective Sidewalks	6-9-21 Encroaching Steps
6-9-8 Notice of Inability to Repair or Barricade	6-9-22 Opening and Enclosures
6-9-9 Standard Sidewalk Specifications	6-9-23 Fire or fuels on sidewalks
6-9-10 Permits for Construction or Removal	6-9-24 Defacing
6-9-11 Failure to Obtain Permit; Remedies	6-9-25 Debris on sidewalk
6-9-12 Inspection and Approval	6-9-26 Merchandise Display
6-9-13 Barricades and Warning Lights	6-9-27 Sales Stands
6-9-14 Interference with Sidewalk Improvements	

6-9-1 PURPOSE. The purpose of this chapter is to improve and maintain sidewalks in a safe condition, to require owners of abutting property to maintain, repair, replace, construct or reconstruct sidewalks.

6-9-2 DEFINITIONS. As used in this chapter, the following terms have these meanings:

1. Defective Sidewalk. Any public sidewalk exhibiting one or more of the following characteristics:
  - a. vertical separations equal to three-fourths (3/4) inch or more.
  - b. horizontal separations equal to three-fourths (3/4) inch or more.
  - c. holes or depressions equal to three-fourths (3/4) inch or more and at least four (4) inches in diameter.
  - d. spalling over fifty (50) percent of the surface of a single square of the sidewalk with one or more depressions equal to one-half (1/2) inch or more.
  - e. spalling over less than fifty (50) percent of a single square of the sidewalk with one or more depressions equal to three-fourths (3/4) inch or more.

- f. a single square of sidewalk cracked in such a manner that no part thereof has a piece greater than one square foot.
  - g. a sidewalk with any part thereof missing to the full depth.
  - h. a change from design or construction grade equal to or greater than three-fourths (3/4) inch per foot.
2. Sidewalk Improvements. The construction, reconstruction, repair, replacement, or removal of a public sidewalk or the excavating, filling, or depositing of material in the public right-of-way in connection therewith.
  3. Owner. The person owning the fee title or the contract purchaser for purposes of notification required herein. For all other purposes, "owner" shall include the lessee, or person in possession.

6-9-3 **CLEANING SNOW, ICE, AND ACCUMULATIONS.** It shall be the duty of the owner to keep sidewalks abutting the owner's property clear of the natural accumulations of snow or ice. If the owner fails to do so within twenty four (24) hours after deposit of accumulation, the Mayor may have the natural accumulations of snow or ice removed without notice to the property owner. The Mayor shall give the Council an itemized and verified statement of the removal costs and a legal description of the property at the next regular Council meeting. The costs shall be reviewed by the Council, and if found correct, shall be assessed against the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

6-9-4 **MAINTENANCE RESPONSIBILITY.** The abutting property owner or owners shall be responsible for the repair, replacement or reconstruction of all broken or defective sidewalks to a safe condition and to maintain in a safe condition all sidewalks in the abutting street right-of-way.

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

6-9-5 **LIABILITY OF ABUTTING OWNER.** As provided in Section 364.14, Code of Iowa, in the event the owner of property abutting any public sidewalk fails or refuses to perform any act required of them by this Ordinance and in the event an action is brought against the City for personal injuries alleged to have been caused by a defect in or the condition of said sidewalk, the City may notify in writing the said abutting owner that it claims the injury was caused by their negligence and/or their failure to repair the defect or eliminate the condition complained of. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend.

A judgment obtained in the suit is conclusive in any action by the City against any person so notified, as to the existence of the defect or condition or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

**6-9-6 ORDERING SIDEWALK IMPROVEMENTS.** The City Council may order the construction, reconstruction, repair, or replacement of permanent sidewalks upon any street or court 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. Notice of this order shall be sent to the owner by certified mail. The notice shall include the fact that the owner may request a hearing by the Council within fifteen (15) days or receipt of the notice.

**6-9-7 REPAIRING DEFECTIVE SIDEWALKS.** It shall be the duty of the abutting property owner at any time, or upon receipt of thirty (30) days' notice from the City, to repair, replace, or reconstruct all broken or defective sidewalks in the abutting street right-of-way. If, after the expiration of the thirty (30) days as provided in the notice, the required work has not been done or is not in the process of completion, the Mayor shall order the work to proceed to repair, replace, or reconstruct the sidewalk. Upon completion of the work, the Mayor shall submit to the Council an itemized and verified statement of expenditures for material and labor, and the legal description of the property abutting the sidewalk on which work has been performed. These costs shall be assessed to the property as taxes. The City Clerk shall be directed to certify the costs to the County Treasurer for collection as provided in Section 364.12 of the Code of Iowa.

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

**6-9-8 NOTICE OF INABILITY TO REPAIR OR BARRICADE.** It shall be the duty of the owner of the property abutting the sidewalk, or of the contractor or agent of the owner, to notify the City immediately in the event the owner is unable to make necessary sidewalk improvements or to install or erect warnings and barricades as required by this chapter.

**6-9-9 STANDARD SIDEWALK SPECIFICATIONS.** Sidewalks constructed, repaired, or replaced under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Portland cement concrete shall be the only material used in the construction and repair of sidewalks unless otherwise authorized by the City Council.
2. Sidewalks shall be on one-course construction.
3. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a four (4) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the Utilities Superintendent.

4. The sidewalk bed shall be graded to the established grade.
5. Residential sidewalks shall be at least four (4) feet wide, or match existing sidewalks, and four (4) inches thick, and each section shall be no more than four (4) feet in length. In the central business district, sidewalks shall extend from the property line to the curb unless the Council shall establish a different distance due to the circumstances. Each section shall be four (4) inches thick and no more than six (6) feet in length and width. All driveway areas shall not be less than six (6) inches in thickness.
6. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) on the property line, unless the Council shall establish a different distance due to the circumstances.
7. Curb tops shall be on level with the centerline of the street which shall be the established grade.
8. The street edge of the sidewalk shall be at an elevation even with the curb at the curb or not less than one-half (1/2) inch above the curb for each foot between the curb and the sidewalk.
9. All sidewalks shall slope at least one-quarter (1/4) inch per foot toward the curb, but in no event more than one-half (1/2) inch per foot toward the curb.
10. All sidewalks shall have a steel trowel finish followed by a "broom" or a "wood float" finish.
11. Ramps for the disabled. There shall not be less than two (2) curb cuts or ramps per lineal block which shall be located on or near the cross-walks at intersections. Each curb cut or ramp shall be at least thirty (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for physically disabled persons using the sidewalk.  
(Code of Iowa, Sec. 216C.9)
12. All sidewalk improvements on public property, whether performed by the owner of the abutting property or by the City, shall be performed under the supervision and inspection of the City Superintendent of Public Works, and in accordance with the standard sidewalk specifications set forth in this chapter.

**6-9-10 PERMITS FOR CONSTRUCTION OR REMOVAL.** No person shall make any sidewalk improvements unless such person shall obtain a permit from the City Clerk. The permit shall state that the person will comply with the Ordinances of the City and with the specifications for sidewalks adopted by the City. The permit also shall state that the work will be done under the direction and approval of the City Superintendent of Public Works. All such permits shall be issued without charge and a copy thereof, with the application, shall be filed and preserved in the office of the City

Clerk. The permit shall state when the work is to be commenced and when the work is to be completed. The time of completion for the sidewalk improvements may be extended by the City Council. All permits for sidewalk improvements not ordered by resolution of the City Council shall be issued in compliance with this chapter. The City Council may withhold the issuance of any permit for any sidewalk improvements for a sufficient period to determine the necessity for the proposed improvements or when weather conditions will adversely affect the sidewalk improvements.

**6-9-11 FAILURE TO OBTAIN PERMIT; REMEDIES.** Whenever any sidewalk improvements are made that do not conform to the provisions of this chapter and with the specifications, or when any sidewalk improvements are made without a permit, the Mayor shall serve notice to obtain a permit upon the property owner and upon the contractor doing the work. If the sidewalk is in the course of construction, the notice shall order the work to stop until a permit is obtained and the work is corrected to comply with the specifications. If the sidewalk work has been completed, the owner shall obtain a permit immediately and perform any needed corrections within five (5) days from receipt of the permit. If the owner fails to comply with this notice, the Mayor shall have the work completed and the costs assessed to the property owner as provided in this chapter.

**6-9-12 INSPECTION AND APPROVAL.** Upon final completion, the Superintendent of Public Works shall inspect the work and may order corrections if the work does not meet specifications. When the work does meet all requirements of this chapter, the specifications, and the permit, the Superintendent of Public Works shall indicate this on both copies of the permit.

**6-9-13 BARRICADES AND WARNING LIGHTS.** Proper warning lights and barricades shall be placed to protect persons from materials, equipment, and dangerous conditions. Placement and maintenance of adequate warnings is the responsibility of the constructor, the owner, and the lessee of the property.

**6-9-14 INTERFERENCE WITH SIDEWALK IMPROVEMENTS.** No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while it is in the process of being improved, or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar, or deface any sidewalk at any time or destroy, mar, remove, or deface any notice or warning device provided by this chapter.

**6-9-15 SPECIAL ASSESSMENTS FOR CONSTRUCTION AND REPAIR.** The City Council may assess the cost of initial construction, improvements, and/or repair of sidewalks in the City according to the special assessment procedures established in Chapter 384, division IV, Code of Iowa.  
(Code of Iowa, Sec. 384.38)

**6-9-16 NOTICE OF ASSESSMENT FOR REPAIR OR CLEANING COSTS.** When the Mayor submits a bill for sidewalk improvements or for removal of accumulations as provided in this chapter, the City Clerk shall send a notice of such facts to the owner of the abutting property. The notice may be given either by personal service or by certified mail to the last known address of the

owner. The notice shall contain a statement of the work performed, the cost of the work that is being assessed, a description of the property affected, and the fact that the person may pay the amount assessed within thirty (30) days without interest or penalty. The notice also shall indicate that the person may object to such assessment and given the place and time at which Council will hear such objections. The time set for hearing shall be at least fifteen (15) days after the service or mailing of the notice.

(Code of Iowa, Sec. 384.50)

6-9-17 HEARING AND ASSESSMENT. At the time and place designed in the Notice, the Council shall consider all objections to the assessment, correct all errors or omissions, and adopt a corrected list as the amounts to be assessed against the property.

(Code of Iowa, Sec. 384.51)

6-9-18 BILLING AND CERTIFYING TO COUNTY. Thirty (30) days after the Council's decision, the City Clerk shall certify any unpaid amounts to the County Treasurer. The unpaid assessments shall constitute a lien against the property and shall be collected by the County Treasurer in the same manner as other taxes. Any assessment that exceeds \$100 may be paid in installments as set by Council, not exceeding ten, in the same manner and at the same interest rates as for special assessments under Chapter 384, division IV, Code of Iowa. No interest shall be charged for assessments, or parts thereof, paid within thirty (30) days of the time the Council determined the final amounts.

(Code of Iowa, Sec. 384.60)

6-9-19 ADAAG Compliance. All construction, repair, and maintenance of sidewalks shall comply with Americans with Disabilities Guidelines (ADAAG).

6-9-20 AWNINGS. It is unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least eight (8) feet above the surface of the sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

6-9-21 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

6-9-22 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.
2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

6-9-23 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

6-9-24 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

6-9-25 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal or vehicle.

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

6-9-26 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

6-9-27 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

**TITLE VI PHYSICAL ENVIRONMENT**

**CHAPTER 10 RESERVED**

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 11 NUMBERING OF BUILDINGS

6-11-1 Buildings to be Numbered

6-11-4 Type of Numbers, Size

6-11-2 Numbering System

6-11-5 Enforcement

6-11-3 Mandatory Numbering

6-11-1 BUILDINGS TO BE NUMBERED. All buildings now or hereafter erected within the City limits shall be assigned numbers and the owners notified of the assigned number. The owners shall cause the numbers to be placed and maintained on their property.

6-11-2 NUMBERING SYSTEM. Numbers shall be assigned in accordance with the system developed by the City Council. The system consists of three-digit numbering. The even numbers shall be on the west and north sides of all streets and the odd numbers shall be on the east and south sides of all streets.

6-11-3 MANDATORY NUMBERING. The placing of numbers is mandatory effective 2/20/2011.

6-11-4 TYPE OF NUMBERS, SIZE. The numbers shall be conspicuously displayed on the portion of the building or premise which faces the street. All numbers shall be of durable substance, clearly legible and the numerals shall be not less than five inches in height.

6-11-5 ENFORCEMENT. If numbers meeting the requirements of this ordinance have not been placed on each building, the City shall cause individual notice to be given to the owner of buildings not numbered, requiring compliance within a reasonable time set in the notice, and if not completed by such time, the City shall cause proper numbers to be installed and the reasonable cost of the installation billed to such owner.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 12 DANGEROUS BUILDINGS

6-12-1 Enforcement Officer	6-12-5 Conduct of Hearing
6-12-2 General Definition of Unsafe	6-12-6 Posting of Signs
6-12-3 Unsafe Building	6-12-7 Right to Demolish
6-12-4 Notice to Owner	6-12-8 Costs

6-12-1 ENFORCEMENT OFFICER. The Mayor and/or his appointee shall be responsible for the enforcement of this chapter.

6-12-2 GENERAL DEFINITION OF UNSAFE. All buildings or structures which are structurally unsafe or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health, or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment, as specified in this chapter or any 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. 657A.1 & 364.12[3a])

6-12-3 UNSAFE BUILDING. "Unsafe building" means any structure or mobile home meeting any or all of 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 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 cracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.
4. 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 structure, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

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 percent or more damage or deterioration of its supporting member or members, or 50 percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
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 attractive nuisance or hazard to the public.
13. Whenever a building has remained vacant and has been in violation of this ordinance and the municipal code of this City for a period of six months.

6-12-4 NOTICE TO OWNER. The Mayor or his/her appointee 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 30 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 improvements are completed, inspected and approved by the mayor.

(Code of Iowa, 1997, as amended, Sec. 364.12(3)(h))

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 the person shall be found within the city limits. If they are 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's office shall begin as of the date they receive such notice.
2. Hearing. Such notice shall also advise the owner that they may request a hearing before the council on the notice by filing a written request for hearing within the time provided in the notice

6-12-5 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. The Council shall make and record findings of fact and may issue such order as it deems appropriate.

6-12-6 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 SHELBY, IOWA."

Such notice shall remain posted until the required repairs, demolition, or removal are completed. Such notice shall not be removed without written permission of the mayor and no person shall enter the building except for the purpose of making the required repairs or of demolishing the building.

6-12-7 RIGHT TO DEMOLISH. In case the owner fails, neglects, or refuses to comply with the notice to repair, rehabilitate, or to demolish and remove the building or structure or portion thereof, the Council may order the owner of the building prosecuted as a violator of the provisions of this chapter and may order the 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])

6-12-8 COSTS. Costs incurred under Section 6-12-7 shall be paid out of the City treasury. Such costs shall be charged to the owner of the premises involved and levied as a special assessment against the land on which the building or structure is located, and shall be certified to the County Treasurer for collection in the manner provided for other taxes.

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

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 13 PROPERTY MAINTENANCE CODE

6-13-1 Adoption of International Property Maintenance Code

6-13-2 Sections of Code Revised

6-13-1 The *International Property Maintenance Code*, 2006 edition, as published by the International Code Council, is hereby adopted as the Property Maintenance Code of the City of Shelby, in the State of Iowa for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the office of the City of Shelby, Iowa.

6-13-2 The following sections are hereby revised:

1. *Section 101.1. Title.* These regulations shall be known as the *Property Maintenance Code* of the City of Shelby, hereinafter referred to as "this code."
2. *Section 103. 5. Fees.* The fees for activities and services performed by the department in carrying out its responsibilities under this code shall be as indicated in the following schedule:  
\$250.00 for each property inspection.
3. *Section 302.4. Weeds.* All premises and exterior property shall be maintained free from weeds or plant growth in excess of six (6") inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.
4. *Section 304.14. Insect screens.* During the period from May 1 to September 30, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or

utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a self-closing device in good working condition. Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

5. *Section 602.3. Heat supply.* Every owner and operator of any building who rents, leases or lets one or more dwelling units or sleeping units on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 1 to April 30 to maintain a temperature of not less than 68° F (20° C) in all habitable rooms, bathrooms, and toilet rooms. Exceptions:
  - a. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the *International Plumbing Code*.
  - b. In areas where the average monthly temperature is above 30° F (-1° C) a minimum temperature of 65° F (18° C) shall be maintained.
  
6. *Section 602.4. Occupiable work spaces.* Indoor occupiable work spaces shall be supplied with heat during the period from September 1 to April 30 to maintain a temperature of not less than 65° F (18° C) during the period the spaces are occupied. Exceptions:
  - a. Processing, storage and operation areas that require cooling or special temperature conditions.
  - b. Areas in which persons are primarily engaged in vigorous physical activities.

## TITLE VI PHYSICAL ENVIRONMENT

### CHAPTER 14 TREES

6-14-1 Definition

6-14-2 Planting Restrictions

6-14-3 Duty to Trim Trees

6-14-4 Trimming Trees to be Supervised

6-14-5 Disease Control

6-14-6 Inspection and Removal

6-14-1 DEFINITION. For use in this chapter, "parking" means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

6-14-2 PLANTING RESTRICTIONS. No tree shall be planted in any parking or street except in accordance with the following:

1. Alignment. All trees planted in any street shall be planted in the parking midway between the outer line of the sidewalk and the curb. In the event a curb line is not established, trees shall be planted on a line ten (10) feet from the property line.
2. Spacing. Trees shall not be planted on any parking which is less than nine (9) feet in width, or contains less than eighty-one (81) square feet of exposed soil surface per tree. Trees shall not be planted closer than twenty (20) feet from street intersections (property lines extended) and ten (10) feet from driveways. If it is at all possible trees should be planted inside the property lines and not between the sidewalk and the curb.
3. Prohibited Trees. No person shall plant in any street any fruitbearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, evergreen, willow or black walnut.

6-14-3 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

6-14-4 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 6-13-3, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

6-14-5 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

6-14-6 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

1. City Property. If it is determined that any such condition exists on any public property, including the strip between the curb and the lot line of private property, the Council may cause such condition to be corrected by treatment or removal. The Council may also order the removal of any trees on the streets of the City which interfere with the making of improvements or with travel thereon.
2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant or person in charge of said property fails to comply within fourteen (14) days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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



## TITLE VII SPECIAL ORDINANCES

### CHAPTER 2 VACATED STREETS AND ALLEYS

7-2-1 Power to Vacate

7-2-4 Disposal of Vacated Streets or Alleys

7-2-2 Notice of Vacation Hearing

7-2-5 Disposal by Gift Limited

7-2-3 Findings Required

**7-2-1 POWER TO VACATE.** When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

**7-2-2 NOTICE OF VACATION HEARING.** The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

**7-2-3 FINDINGS REQUIRED.** No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. **Public Use.** The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.
2. **Abutting Property.** The proposed vacation will not deny owners of property abutting on the street. or alley reasonable access to their property.

**7-2-4 DISPOSAL OF VACATED STREETS OR ALLEYS.** When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364. 7)

**7-2-5 DISPOSAL BY GIFT LIMITED.** The City may not dispose of real property by gift except to a governmental body for a public purpose.

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



**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 3 RESERVED**

## TITLE VII SPECIAL ORDINANCES

### CHAPTER 4 GAS FRANCHISE

7-4-1 Franchise Granted

7-4-2 Rights and Privileges

7-4-3 Right to Excavate

7-5-4 Installations

7-5-5 Excavations

7-5-6 Indemnity

7-5-7 Compliance with Iowa Utilities Board

7-5-8 Compliance with Iowa Laws and  
Regulations

7-5-9 Franchise Fee

7-4-1 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called "Company", and to its successors and assigns the right and franchise to acquire, construct, erect, maintain and operate in the City of Shelby, Iowa, hereinafter called the "City", a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise the Company is granted the right of eminent domain, the exercise of which is subject to City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance, provided however, that there may be a re-evaluation prior to the end of year 15, with the opportunity for both parties to request amendments. If neither party requests such re-evaluation by means of a written notice to the other party at least 90 days prior to the expiration of year 15, this franchise will continue without change for the remaining 10 years. If such a request to re-evaluate or amend the ordinance is made and the parties are unable to agree to amend the ordinance within 90 days or by a mutually agreed upon date, then either party may terminate this franchise agreement at the end of year 15.

7-4-2 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa, or as subsequently amended or changed.

7-4-3 RIGHT TO EXCAVATE. Company shall have the right to excavate in any public street for the purpose of laying, relaying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

7-4-4 INSTALLATIONS. The Company shall, at its cost and expense, locate and relocate its installations in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City has a reasonable alternative route for the street, alley or public

improvements or an alternative construction method, which would not cause the relocation of the Company installations, the City shall consider but is not required to select said alternative route, or construction method. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities or by using a different method to perform the street and/or curbing construction, and said other cost of construction or relocation is less than the Company's, the City shall consider but is not required to select the route or method that is less expensive. The Company will notify the City if project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

7-5-5 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

7-5-6 INDEMNITY. Company shall indemnify and save harmless City from any and all claims, suits, losses, damages, costs or expenses on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by Company's negligence in construction, reconstruction, excavation, operation or maintenance of the gas utilities authorized by this franchise, provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

7-5-7 COMPLIANCE WITH IOWA UTILITIES BOARD. The Company shall extend its mains and pipes and operate, and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

7-5-8 COMPLIANCE WITH IOWA LAWS AND REGULATIONS. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

7-5-9 FRANCHISE FEE. The City reserves the right to impose a franchise fee in a manner consistent with state law. The City shall work with the Company to develop a methodology and time line to implement the franchise fee.

**EDITOR'S NOTE:** Ordinance No. 7-3.0101 adopting a natural gas franchise for the City, was passed and adopted on September 14, 1982. Voters approved the franchise at an election held on November 23, 1982. The Grantee accepted the franchise on January 4, 1983. The franchise was renewed for a period of 25 years on May 6, 2008.

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 5 RESERVED**

**TITLE VII SPECIAL ORDINANCES**

**CHAPTER 6 RESERVED**

## TITLE VII SPECIAL ORDINANCES

### CHAPTER 7 TIF

7-6-1 Purpose  
7-6-2 Definitions

7-6-3 Provision for Division of Taxes  
Levied

7-6-1 PURPOSE. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Shelby/Pottawattamie County Urban Renewal Area, each year by and for the benefit of the state, city, county, school districts or other taxing districts after the effective date of this ordinance in order to create a special fund to pay the principal of and interest on loans, moneys advanced to or indebtedness, including bonds proposed to be issued by the City of Shelby to finance projects in such area .

7-6-2. DEFINITIONS. For use within this ordinance the following terms shall have the following meanings:

1. "City" shall mean the City of Shelby, Iowa.
2. "County" shall mean the Counties of Shelby and Pottawattamie, Iowa.
3. "TIF District" shall mean that portion of the Shelby/Pottawattamie County Urban Renewal Area, the boundaries of which are set out below:

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

All of the Southeast Quarter (SEY4) of Section Four (4), Township 77 North, Range 40, West of the 5th P.M., including the abutting right-of-way of Whippoorwill Road and the abutting right-of-way of 385th Street/Highway M-16 plus an additional segment of such right-of-way extending 200 feet south of Whippoorwill Road.

5. "Urban Renewal Area" shall mean the Shelby/Pottawattamie County Urban Renewal Area, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on February 15, 2006.

7-6-3 PROVISIONS FOR DIVISION OF TAXES LEVIED ON TAXABLE PROPERTY IN THE TIF DISTRICT. After the effective date of this ordinance, the taxes levied on the taxable property in the TIF District each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the TIF District is located, shall be divided as follows:

1. that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the TIF District, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (2) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the TIF District on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the TIF District to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.
2. that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1 ), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, and to provide assistance for low and moderate income family housing as provided in Section 403.22, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2 of the Code of Iowa, and taxes for the payment of bonds and interest of each taxing district shall be collected against all taxable property within the taxing district without limitation by the provisions of this ordinance. Unless and until the total assessed valuation of the taxable property in the TIF District exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (1) of this section, all of the taxes levied and collected upon the taxable property in the TIF District shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, advances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the TIF District shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.
3. the portion of taxes mentioned in subsection (2) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or refinance in whole or in part projects in the Urban Renewal Area.
4. as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

