

**CITY CODE
of
BUFFALO IOWA**

1975

Updated 2011

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CHARTER ORDINANCES

ORDINANCE NO. 277

AN ORDINANCE ADOPTING THE CITY CODE OF BUFFALO, IOWA

BE IT ENACTED by the City Council of the City of Buffalo, Iowa:

SECTION 1. PURPOSE.

The purpose of this adopting ordinance is to enable the City of Buffalo, Iowa, to comply with the provisions of Code of Iowa, § 380.8.

SECTION 2. ADOPTION.

The City of Buffalo, Iowa, hereby adopts the 1990 City Code of Buffalo, Iowa, pursuant to the provisions of Code of Iowa, § 380.8.

SECTION 3. CONTENT.

The 1990 City Code of Buffalo, Iowa, is composed of the 1975 City Code of Buffalo, Iowa, as it has been amended by Ordinances 169-270 inclusive. The 1990 City Code of Buffalo, Iowa, shall include this adopting ordinance and the City Clerk's certification of its adoption and passage.

SECTION 4. FORMAT.

The 1990 City Code of Buffalo, Iowa, shall be compiled in loose leaf format.

SECTION 5. OFFICIAL COPY.

The City Clerk shall be responsible for the compilation, organization, and maintenance of the official 1990 City Code of Buffalo, Iowa, and shall keep the official copy on file in the office of the City Clerk.

SECTION 6. PUBLIC COPIES.

Additional copies of the 1990 City Code of Buffalo, Iowa, shall be kept in the office of the City Clerk and shall be available for public inspection and purchase.

SECTION 7. EFFECTIVE DATE.

This ordinance shall become effective upon publication as required by law.

Approved by the City Council of the City of Buffalo, Iowa, this 06 day of May, 1990.

Approved and signed by the Mayor of the City of Buffalo, Iowa, this 06 day of May, 1990.

Betty O. Walters, Mayor

ATTEST:

Carol A. Bernauer, City Clerk

ORDINANCE NO. 202

AN ORDINANCE ADOPTING THE REVISED CODE FOR THE CITY OF BUFFALO, IOWA

SECTION 1. ADOPTION OF 1980 MUNICIPAL CODE.

The ordinances the city of a general and permanent nature as codified in this volume entitled "Municipal Code of Buffalo" as revised, edited and indexed by Book Publishing Company of Seattle, Washington, and published by Book Publishing Company and the city, are ordained as general ordinances and are adopted as and shall constitute the Municipal Code of Buffalo, Iowa, 1980.

SECTION 2. REPEAL OF 1975 MUNICIPAL CODE.

All of the provisions of the Municipal Code of Buffalo, 1980, shall be in full force and effect on and after the effective date of this ordinance, and Ordinance No. 169, which adopted the Municipal Code of Buffalo, 1975, is hereby repealed from and after the effective date of this ordinance.

SECTION 3. EFFECT OF CODE ON PAST ACTIONS AND OBLIGATIONS.

Neither the adoption of this code nor the repeal or amendments hereby of any ordinance or part or portion of any ordinance of the city shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to the effective date hereof, nor be

construed as a waiver of any license, fee, or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect.

SECTION 4. DISTRIBUTION OF CODE COPIES.

In conformity with the laws of the State of Iowa, it is hereby declared that:

(a) Pursuant to published notice, a public hearing has been duly held and the council has determined that the proposed municipal code in its original form is adopted as a municipal code of the ordinances of the city;

(b) That an official copy of the municipal code as adopted, including a certificate by the city clerk as to its adoption and the effective date, is on file in the office of the city clerk;

(c) Copies of said code being a loose-leaf code, shall be kept available at the clerk's office for public inspection and for sale at cost to the public;

(d) Copies of said municipal code shall be furnished to the State Law Library, the Municipal Law Library, to all newspapers of general circulation published in the city, to all commercial radio stations situated in the city, and to all television stations situated in the city.

SECTION 5. TITLE, CHAPTER AND SECTION HEADINGS.

Title, chapter and section headings contained in the Municipal Code of Buffalo, 1980, shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section in the code.

SECTION 6. CONSTITUTIONALITY.

If any section, subsection, sentence, clause or phrase of the Municipal Code of Buffalo, 1980, shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the code as a whole or any section, subsection, sentence, clause or phrase thereof not adjudged invalid or unconstitutional.

Approved by the Buffalo City Council this 2nd day of February 1981.

Approved by the Mayor of Buffalo this 2nd day of February 1981.

SIGNED

Raymond L. Farley-Mayor

Attest

Mildred Niles
City Administrator

TITLE I - POLICY AND ADMINISTRATION
CHAPTER 1 - GENERAL PROVISIONS

ARTICLE 1
CITY CODE

1-1.0101 TITLE.

This code of ordinance shall be known and may be cited as the City Code of the City of Buffalo, Iowa, 1975.

1-1.0102 DEFINITIONS.

Terms used in this city code, unless specifically defined otherwise in another section shall have the meanings prescribed as follow:

1. "City": shall mean the City of Buffalo, Iowa.
2. "County": shall mean Scott County, Iowa.

3. "State": shall mean the State of Iowa.
4. "Council": shall mean the city council of Buffalo, Iowa.
5. "Clerk": shall mean the city clerk of Buffalo, Iowa.
6. "Person": shall mean an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust, or other legal entity, and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.
7. "Ordinances": shall mean the ordinances of the city of Buffalo as embodied in the city code, ordinances not repealed by ordinance adopting the city code, and enacted hereafter.
8. "City Code": shall mean the City Code of the City of Buffalo, Iowa, 1975.
9. "Code": shall mean the specific chapter in which specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).
10. "Measure": shall mean an ordinance, amendment, resolution or motion.
11. "Statutes, Laws": shall mean the latest edition of the Code of Iowa, as amended.
12. "Preceding, Following": shall mean next before and next after, respectively.
13. "Property": shall include real property, and tangible and intangible personal property unless clearly indicated otherwise.
14. "Property Owner": shall mean a person owning private property in the city as shown by the county auditor's plats of the city.

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

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

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

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

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

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

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

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

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

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

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

1-1.0103 RULES OF CONSTRUCTION.

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

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

2. May: confers a power.

3. Must: states a requirement.

4. Shall: imposes a duty.

5. Gender: the masculine gender shall include the feminine and neuter genders.

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

1-1.0104 AMENDMENTS.

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

(Code of Iowa, 1975, Sec. 380.2)

1-1.0105 CATCHLINES AND NOTES.

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

1-1.0106 ALTERING CODE.

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

1-1.0107 STANDARD PENALTY.

1-1.107 (1) General Penalty.

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of the ordinances of the City is guilty of a misdemeanor. Any person convicted of a misdemeanor under the ordinances of the City shall be punished by a fine of not more than Six Hundred Twenty-Five Dollars (\$625.00), or by imprisonment not to exceed thirty (30) days. (Code of Iowa, Sec. 364.3(2))

1-1.107 (2) Civil Penalty - Municipal Infraction. (Code of Iowa, Sec. 364.22)

A. Definitions.

1. *Municipal Infraction*. Except those provisions specifically provided under state law as a felony, an aggravated misdemeanor, or a serious misdemeanor or a simple misdemeanor under Chapters 687 through 747 of the Iowa Code, the doing of any act prohibited or declared to be unlawful, an offense or a misdemeanor by the Code of Ordinances City of Buffalo, 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 Buffalo, or any ordinance or code herein adopted by reference, is a *municipal infraction* and is punishable by civil penalty as provided herein.
2. *Officer*. The term *officer* shall mean any employee or official authorized to enforce the Code of Ordinances of the City of Buffalo.
3. *Repeat Offense*. The term *repeat offense* shall mean a recurring violation of the same section of the Code of Ordinances.

B. Violations, Penalties, and Alternative Relief.

- 1 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.

2. A municipal infraction shall provide a civil penalty in an amount of not more than Three Hundred Dollars (\$300.00) or if the infraction is a repeat offense, a civil penalty not to exceed Six Hundred Dollars (\$600.00).

(Ord. 447,2011; Code of Iowa, 1975, Sec. 364.3 [2])

1-1.0108 SEVERABILITY.

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

ARTICLE 2
OFFICERS AND EMPLOYEES

1-1.0201 OATHS.

1. Qualify for Office. All elected officers and the following appointed officers shall qualify for office by taking the prescribed oath:

(Code of Iowa, 1975, Sec. 63.1)

- A. County Clerk
- B. Peace Officer

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 Buffalo as now or hereinafter required by law."

(Code of Iowa, 1975, Sec. 63.10)

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

- A. The Mayor

B. The Clerk/Administrator

C. Members of all boards, commissions or bodies created by law.

(Code of Iowa, 1975, Sec. 78.2)

1-1.0202 BONDS.

1. Bonds Required. Each municipal officer required by law or city code to be bonded shall, before entering upon the duties of his office, execute to the city a good and efficient bond, to be approved by the mayor, conditioned on the faithful performance of his duties and the proper handling and accounting for the money and property of the city in his charge.

(Code of Iowa, 1975, Sec. 64.13)

2. 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 bonds required herein.

(Code of Iowa, 1975, Sec. 64.17)

3. Amount of Bonds. Employees, such as city clerk, deputy clerk, building inspector and public works director, and elected officials shall be covered with a blanket bond under the city insurance plan of an amount of twenty-five thousand dollars (\$25,000) each. This is included each year in the city insurance premium.

(Ord. 310, 1996: Code of Iowa, 1975, Sec. 64.13)

4. Bonds Filed. All bonds when duly executed shall be filed with the clerk.

(Code of Iowa, 1975, Sec. 64.23 [6])

1-1.0203 DUTIES: GENERAL.

Each municipal officer shall exercise the powers and perform the duties prescribed by law and city code, or as otherwise directed by the council unless contrary to state law or City Charter.

(Code of Iowa, 1975, Sec. 372.13 [4])

1-1.0204 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.

(Code of Iowa, 1975, Sec. 68A.2)

1-1.0205 TRANSFER TO SUCCESSOR.

Each officer shall transfer to his successor in office all books, papers, records, documents and property in his custody and appertaining to his office.

(Code of Iowa, 1975, Sec. 372.13 [4])

1-1.0206 OPEN MEETINGS.

All meetings of the council, any board or commission, or any committee of the foregoing bodies, shall comply with the following:

1. Open to Public. Meetings shall be open to the public at all times, and any meetings which are not open to the public are prohibited, unless closed meetings are expressly permitted by law.

(Code of Iowa, 1975, Sec. 28A.1 [2])

2. Exception. Any meeting may be closed by affirmative vote of two thirds of its members present, when necessary:

A. to prevent irreparable and needless injury to the reputation of an individual whose employment or discharge is under consideration.

B. to prevent premature disclosure of information on real estate proposed to be purchased, or

C. for some other exceptional reason so compelling as to override the general public policy in favor of public meetings.

(Code of Iowa, 1975, Sec. 28A.3)

3. Advance Notice of Meetings. Each public agency shall give advance public notice of the time and place of each meeting by notifying the communications media or in some other way which gives reasonable notice to the public. When it is necessary to hold an emergency meeting

without notice, the nature of the emergency shall be stated in the minutes.

(Code of Iowa, 1975, Sec. 28A.4)

1-1.0207 CONFLICT OF INTEREST.

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

(Code of Iowa, 1975, Sec. 362.5)

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

(Code of Iowa, 1975, Sec. 362.5 [1])

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

(Code of Iowa, 1975, Sec. 362.5 [2])

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

(Code of Iowa, 1975, Sec. 362.5)

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 nine (9) of this section, or both, if the contracts are made by competitive bid, publicly invited and opened, and if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid requirement of this subsection shall not be required for any contract for professional services not customarily awarded by competitive bid.

(Code of Iowa, 1975, Sec. 362.5 [5])

5. Newspaper. The designation of an official newspaper.

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

(Code of Iowa, 1975, Sec. 362.5 [6])

7. Volunteers. Contracts with volunteer firemen or civil defense volunteers.

(Code of Iowa, 1975, Sec. 362.5 [7])

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

(Code of Iowa, 1975, Sec. 362.5 [8])

9. Competitive Bids. A contract made by competitive bid, publicly invited and opened, in which a member of a city board of trustees, commission, or administrative agency has an interest if he is not authorized by law to participate in the awarding of the contract. The competitive bid requirement does not apply to any contract for professional services not customarily awarded by competitive bid.

(Code of Iowa, 1975, Sec. 362.5 [10])

10. Cities Under Three Thousand (3,000) Population. Contracts made by a city of less than three thousand (3,000) population, upon competitive bid in writing, publicly invited and opened.

(Code of Iowa, 1975, Sec. 362.5 [4])

1-1.0208 RESIGNATIONS.

An elected officer who wishes to resign may do so by submitting his 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 he

was elected if during that time, the compensation of the office has been increased.

(Code of Iowa, 1975, Sec. 372.13 [9])

1-1.0209 VACANCIES.

When a vacancy occurs in an elected office during the term of office, it must be filled by the council for the period of time until the next regular city election. When a vacancy occurs in an appointed office, it must be filled by the appointing authority.

(Code of Iowa, 1975, Sec. 372.13 [2])

1-1.0210 RESIDENCY REQUIREMENTS FOR CITY EMPLOYEES.

Any employee of the city of Buffalo will be required to be a resident of Iowa and live within twenty-five (25) miles of the City Hall in Buffalo, at the time of employment.

(Ord. 282, 1991)

1-1.0211 REMOVAL OF ELECTED OFFICIAL BY COUNCIL.

1. Any city officer elected by the people may be removed from office, after hearing on written charges filed with the council for any cause which would be grounds for an equitable action for removal in the District Court of Iowa which are as follows:

A. For wilful or habitual neglect or refusal to perform the duties of the office;

B. For wilful misconduct or maladministration in office;

C. For corruption;

D. For extortion;

E. Upon conviction of a felony;

F. For intoxication, or upon conviction of being intoxicated;

G. Upon conviction of violating any provision of Chapter 56 of the code of Iowa.

Such removal can only be made by a two-thirds ($\frac{2}{3}$) vote of the entire council.

2. An action for removal under this section shall be commenced by the mayor or any council member stating the grounds for removal in a verified written document filed with the city clerk. Upon the filing of the written document notice of such filing and of the time and place of hearing shall be served upon the accused in the manner required for the service of notice of the commencement of an ordinary action. Said time shall not be less than ten (10) days nor more than twenty (20) days after completed service of said notice.

3. The hearing on removal shall be held at a special meeting of the council. If the accused is the mayor, the mayor pro tem shall preside at the meeting. At the hearing, the council shall hear evidence presented by council members and the accused.

4. In the event the council votes by two-thirds ($\frac{2}{3}$) majority of the entire council to remove the accused from office, the vacancy shall be filled in the same manner as any other vacancy in office, as provided by state law and these ordinances.

(Ord. 327, 1996)

ARTICLE 3
RUN OFF ELECTION
(RESERVED FOR, FUTURE USE)

ARTICLE 4
FISCAL MANAGEMENT

1-1.0401 PURPOSE.

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

1-1.0402 FINANCE OFFICER.

The city clerk shall be the finance and accounting officer of the city and shall be responsible for the administration of the provisions of this article.

1-1.0403 CASH CONTROL.

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

1. Deposit of Funds. All monies or fees collected for any purpose by any city officer shall be deposited, through the office of the city clerk. If any said fees are due to an officer, they shall be paid to him by check drawn by the clerk and approved by the council only upon such officer making adequate reports relating thereto as required by law, ordinance or council directive.

2. Bank Deposits. All monies belonging to the city shall be promptly deposited in banks selected by the council in amounts not exceeding the authorized depository limitation established by the council.

1-1.0404 FUND CONTROL.

The clerk and treasurer shall establish and maintain separate and distinct funds in accordance with the following:

1. Revenues. All monies received by the city shall be credited to the proper fund as required by law, ordinance or resolution.

2. Expenditures. No disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance or resolution, was properly budgeted, and supported by a claim approved by the council.

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

(Iowa Departmental Page 27, Sec. 2.5(2))

4. Debt Service Fund. Except where specifically prohibited by state law, monies may be transferred from any other city fund to the debt service to meet payments

of principal and interest. Such transfers must be authorized by the original budget or a budget amendment.

(Iowa Departmental Rules, Jan. 1975.
Supp., Page 27 Sec. 24 [3])

5. Capital Improvements Reserve Fund. Except where specifically prohibited by state law, monies may be transferred from any city fund to the capital improvements reserve fund. Such transfers must be authorized by the original budget or a budget amendment.

(Iowa Departmental Rules, Jan. 1975.
Supp., Page 27, Sec. 2.5 [4])

6. Utility and Enterprise Funds. The governing body of a city utility, combined utility system, city enterprise or combined city enterprise which has a surplus in as fund may transfer such surplus to any other city fund, except the emergency fund, by resolution. A surplus shall be defined as a situation in which revenues exceed obligations including depreciation reserve schedules and when there remains such monies as are necessary to pay principal and interest on all indebtedness of the enterprise or utility. No transfer shall be made that is in violation of state law or rules of the city finance committee.

(Iowa Departmental Rules, Jan. 1975
Supp., Page 27, Sec. 2.5 [5])

7. Balancing of Funds. The clerk and treasurer shall reconcile their fund accounts at the close of each month and submit a report thereof to the council.

1-1.0405 OPERATING BUDGET PREPARATION.

The actual operating budget of the city shall be prepared in accordance with the following:

1. Proposal Prepared. The city administrator shall be responsible for preparation of the annual budget detail, for review and adoption by the mayor and council in accordance with directives of the mayor and council.

2. Boards and Commissions. All boards, commissions and other administrative agencies of the city that are authorized to prepare and administer budgets must submit their budget proposals to the clerk for inclusion in the

proposed city budget no later than February 1 of each year and in such form as may be required by the city administrator.

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

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

5. Notice of Hearing. Upon adopting a proposed budget the council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing to be published not less than four (4) nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the county auditor.

(Code of Iowa, 1975, Sec. 384.16 [3])

6. Copies of Budget on File. No later than February 21, the clerk shall provide a sufficient number of copies of the budget to meet reasonable demands of taxpayers and have then available at the offices of the mayor and clerk and at the city library.

(Code of Iowa, 1975, Sec. 384.16 [2])

7. Adoption and Certification. After the hearing, the council shall adopt, by resolution, a budget for at least the following year and the clerk shall certify the necessary tax levy for the following fiscal year to the county auditor and the county board of supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget. A copy of the complete budget as adopted must be transmitted to the county auditor and the state comptroller.

(Code of Iowa, 1975, Sec. 384.16 [5])

1-1.0406 CAPITAL BUDGET PREPARATION.

(Reserved for Future Use)

1-1.0407 BUDGET AMENDMENTS.

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

(Code of Iowa, 1975, Sec. 384.18)

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

(Code of Iowa, 1975, Sec. 384.18)

(Iowa Departmental Rules, Jan. 1975, Supp., Page 26, Sec. 2.2)

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

(Iowa Departmental Rules, Jan. 1975 Supp., Page 26, Sec. 2.3)

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

(Iowa Departmental Rules, Jan. 1975 Supp., Page 26, Sec. 2.4)

4. Activity Transfers. The clerk shall have the authority to adjust, by transfer or otherwise, the appropriation allocated to activities within a program or sub-program provided, however, that when such adjustments in any one activity aggregate \$1,000.00 or ten percent (10%) of the amount appropriated, whichever is greater, no further adjustments shall be made without approval by resolution of the council.

(Iowa Departmental Rules, Jan. 1975 Supp., Page 26, 2.4).

1-1.0408 INVESTMENT OF FUNDS.

The clerk shall advise the conflict of investments and shall invest city monies not immediately needed at interest in accordance with council directives and the requirements of Chapter 452, Code of Iowa, 1975.

1-1.0409 ACCOUNTING.

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

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

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

3. Checks. Checks shall be prenumbered and signed by the clerk following council approval, except as provided by subsection 5 hereof.

4. Budget Accounts. There shall be established such individual accounts to record receipts by source and expenditures by program, sub-program and activity as will provide adequate information and control for budgeting purposes as planned and approved by the council. Each individual account shall be maintained within its proper fund and so kept that receipts can be immediately and directly compared with revenue estimates and expenditures can be related to the authorizing appropriation. No expenditure shall be posted except to the appropriation for the function and purpose for which the expense was incurred.

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

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

1-1.0410 FINANCIAL REPORTS.

The clerk shall prepare and file the following financial reports:

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

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

(Code of Iowa, 1975, Sec. 384.22)

1-1.0411 CONTINGENCY ACCOUNT.

Whenever the council shall have budgeted for a contingency account such an account shall be established in the accounting records but no claim shall be paid from such an account. Contingency accounts may be drawn upon only by council resolution directing a transfer to a specific purpose account within its fund and program and then only upon compelling evidence of an unexpected and unforeseeable need or emergency.

CHAPTER 2 - ORGANIZATION

ARTICLE 1
CHARTER

1-2.0101 TITLE.

This article may be cited as the charter of the city of Buffalo, Iowa.

1-2.0102 FORM OF GOVERNMENT.

The form of government of the city of Buffalo, Iowa, is the mayor-council form of government.

(Code of Iowa, 1975, Sec. 372.4)

1-2.0103 POWERS AND DUTIES.

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

1-2.0104 NUMBER AND TERM OF COUNCIL.

The council consists of five councilmen elected at large, elected for terms of four years.

(Code of Iowa, 1975, Sec. 372.4)

1-2.0105 TERM OF MAYOR.

The mayor is elected for a term of two years.

(Code of Iowa, 1975, Sec. 376.2)

1-2.0106 COPIES ON FILES.

The clerk shall keep official copy of the charter on file with the official records of the clerk, the secretary of state, and shall keep copies of the charter available at the clerk's office for public inspection.

(Code of Iowa, 1975, Sec. 372.1)

ARTICLE 2

BOUNDARIES

(Reserved for Future Use)

CHAPTER 3 - MAYOR AND COUNCIL

ARTICLE 1

MAYOR

1-3.0101 TERM OF OFFICE.

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

(Code of Iowa, 1975, Sec. 376.2)

1-3.0102 POWERS AND DUTIES.

The powers and duties of the mayor shall be as follows.

1. Chief Executive Officer. He shall supervise all departments of the city and give direction to department heads concerning the functions of the departments. He shall have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.

(Code of Iowa, 1975, Sec. 372.14 [1])

2. Presiding Officer. He shall act as presiding officer at all regular and special council meetings. The mayor pro tem shall serve in this capacity in the mayor's absence.

(Code of Iowa, 1975, Sec. 372.14 [1 and 3])

3. Special Meetings. He shall call special meetings of the council when he deems such meetings necessary to the interests of the city.

(Code of Iowa, 1975, Sec. 372.14 [1])

4. Mayor's Veto. He may sign, veto or take no action on an ordinance, amendment or resolution passed by the council. If he exercises his veto power, he must explain the reason for such veto to the council at the time of the veto. The council may override the mayor's veto by a two-thirds ($\frac{2}{3}$) majority of the council members.

(Code of Iowa, 1975, Sec. 380.5, 380.6 [2])

5. Reports to Council. He shall make such oral or written reports to the council at the first meeting of every month and/or weekly written reports to the council as required.

(Ord. 314, 1996)

6. Negotiations. He shall represent the city in all negotiations properly entered into in accordance with law or ordinance. He shall not represent the city where this duty is specifically delegated to another officer by law or ordinance.

7. Contracts. He shall, whenever authorized by the council, sign all contracts on behalf of the city.

8. Professional Services. He shall, upon order of the council, secure for the city such specialized and professional services not already available to the city. In executing the order of the council he shall conduct himself in accordance with the city code and the laws of the state.

9. Licenses and Permits. He shall sign all licenses and permits which have been granted by the council, except those designated by law or ordinance to be issued by another municipal officer.

10. Nuisances. He shall order in writing, to be removed at public expense, any nuisance for which no person can be found responsible and liable. The order to remove said nuisances shall be carried out by the chief of police.

11. Absentee Officer. He shall make appropriate provision that duties of any absentee officer be carried on during such absence.

1-3.0103 APPOINTMENTS.

The mayor shall appoint the:

Mayor pro tem

Marshal and deputies

Planning and zoning commission

(Code of Iowa, 1975, Sec. 372.4)

1-3.0104 COMPENSATION.

The salary of the mayor shall be established at two thousand dollars (\$2,000) annually, payable quarterly. In addition the mayor shall receive compensation for one (1) private telephone and compensation for expenses incurred while performing the duties of the office outside the corporate limits, subject to council approval.

(Ord.443,2011(part); Ord. 410, 2006; Ord. 315, 1996)

ARTICLE 2
MAYOR PRO TEMPORE

1-3.0201 VICE PRESIDENT of COUNCIL.

The mayor pro tempore shall be vice-president of the council.

(Code of Iowa, 1975, Sec. 372.14 [3])

1-3.0202 POWERS AND DUTIES.

Except for the limitations otherwise provided herein, the mayor pro tempore shall perform the duties of the mayor in cases of absence or inability of the mayor to perform his duties. In the exercise of the duties of his office the mayor pro tempore shall not have power to employ or discharge from employment officers or employees that the mayor has the power to appoint, employ or discharge without the approval of the council.

(Code of Iowa, 1975, Sec. 372.14 [3])

1-3.0203 VOTING RIGHTS.

The mayor pro tempore shall have the right to vote as a member of the council.

(Code of Iowa, 1975, Sec. 372.14 [3])

1-3.0204 COMPENSATION.

The mayor pro tempore shall receive the same salary as the mayor after acting during the absence of the mayor, or the inability of the mayor to perform for thirty days or more.

(Code of Iowa, 1975, Sec. 372.13 [8])

ARTICLE 3
COUNCIL

1-3.0301 NUMBER AND TERM OF COUNCIL.

The council consists of five councilmen elected at large, elected for terms of four years.

(Code of Iowa, 1975, Sec. 372.4 and 376.2)

1-3.0302 POWERS AND DUTIES.

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

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

(Code of Iowa, 1975, Sec. 364.2 [1])

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

(Code of Iowa, 1975, Sec. 372.13 [7])

3. Fiscal Authority. The council shall apportion and appropriate all funds, and audit and allow all bills, accounts, pay rolls 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, 1975, Sec. 364.2 [1], 384.16 and 384.38 [1])

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

(Code of Iowa, 1975, Sec. 364.2 [1])

5. Contracts. The council shall make or authorize the making of all contracts, and no contract shall bind or be obligatory upon the city unless either made by ordinance or resolution adopted by the council, or reduced to writing and approved by the council, or expressly authorized by ordinance or resolution adopted by the council. All contracts and all ordinances and resolutions making contracts or authorizing the making of contracts shall be drawn or approved by the City Attorney before the same are made or passed.

(Code of Iowa, 1975, Sec. 364.2 [1] and 384.95 thru 384.102)

6. Employees. The council shall authorize, by resolution, the number, duties and compensation of employees not otherwise provided for by state law or the city code.

(Code of Iowa, 1975, Sec. 372.13 [4])

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

(Code of Iowa, 1975, Sec. 372.13 [5])

8. Setting Compensation for Elected Officers. By ordinance, the council shall prescribe the compensation of the mayor, councilmen, and other elected city officers, but an increase in the compensation of the mayor or treasurer shall not become effective during the term in which the increase is adopted, and the council shall not adopt such an ordinance increasing the compensation of any elected officer during the months of November and December immediately following a regular city election. An increase in the compensation of councilmen shall become effective for all councilmen at the beginning of the term of the councilmen elected at the election next following the adoption of the increase in compensation.

(Code of Iowa, 1975, Sec. 372.13 [8])

9. Dismissal of Employees. In order to dismiss an employee, or a vote not to retain an employee, will require a two-thirds (2/3) vote of the whole council.

(Code 252, 1988)

1-3.0303 EXERCISE OF POWER.

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

(Code of Iowa, 1975, Sec. 364.3 [1])

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

(Code of Iowa, 1975, Sec. 380.4)

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

(Code of Iowa, 1975, Sec. 380.6 [2])

3. Measures Become Effective. Measures passed by the council, other than motions, become effective in one (1) 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, 1975, Sec. 380.6 [1])

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

(Code of Iowa, 1975, 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, 1975, Sec. 380.6 [3])

1-3.0304 MEETINGS.

Meetings of the council shall be as follows:

1. The regular meeting of the council shall be on the first Monday of each month at seven P.M. in the council chambers at City Hall. In the event of a holiday on the day of the regular meeting, the city council shall set a date at the preceding monthly meeting for the date of the regular meeting.

(Ord. 414, 2006; Ord. 399, 2005; Ord. 388, 2004; Ord. 378, 2002; Ord. 376, 2002; Ord. 313, 1996)

2. Special Meetings. Special meetings shall be held upon the call of the mayor or upon written request from the majority of the members of the 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 council. A record of the service of notice shall be maintained by the clerk.

(Ord. 388, 2004; Code of Iowa, 1975, Sec. 372.13 [5])

3. Quorum. A majority of all councilmen is a quorum.

(Code of Iowa, 1975, Sec. 372.13 [1])

4. Rules of Procedure. The council shall determine the rules of its own proceedings by resolution and the clerk shall keep such rules on file for public inspection.

(Code of Iowa, 1975, Sec. 372.13 [5])

5. Committee meetings must be set at a Council meeting, or by three Council members, or two Council members and the Mayor. Meetings will be scheduled no earlier than 6:00pm unless special circumstances take place.

(Ord.

444,2011)

1-3.0305 APPOINTMENTS.

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

City Administrator

City Clerk

City Attorney

Zoning Enforcement Officer

Zoning Board of Adjustment

(Code of Iowa, 1975, Sec. 372.13 [3 and 4])

1-3.0306 COMPENSATION.

The compensation for each councilmember for each regular council meeting and each special council meeting shall be set at twenty-five dollars (\$25) for each meeting attended. Effective 1-1-2012

The compensation for each councilmember for each

committee meeting that has been called for shall be set at ten dollars (\$10) for each meeting attended.
Effective 1-1-2012

(Ord.443,2011; Ord. 410, 2006; Ord. 258, 1989; Ord. 180, 1979;
Code of Iowa, 1975, Sec. 372.13 [8])

CHAPTER 4 - ADMINISTRATION

ARTICLE 1 CITY CLERK

1-4.0101 POWERS AND DUTIES: GENERAL.

The clerk, or in his absence or inability to act, the deputy clerk, shall have the powers and duties as provided in this article, the city code and the law.

(Ord. 242 Sec. 2(A)(part), 1987)

1-4.0102 RECORDING OF MEETING MINUTES.

The clerk shall attend all regular and special council meetings and prepare and publish a condensed statement of the proceedings thereof. Such statement shall include a list of all claims allowed, a summary of all receipts and the gross amount of the claims approved.

(Ord. 242 Sec. 2(A)(part), 1987; Code of Iowa, 1975, Sec. 372.13 [b])

1-4.0103 RECORDING MEASURES CONSIDERED.

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

(Ord. 242, Sec. 2(A)(part), 1987;
Code of Iowa, 1975, Sec. 380.7 [13])

1-4.0104 PUBLICATION.

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

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

2. Manner of Publication. A publication required by the city code or law must be in a newspaper published at least once weekly and having a general circulation in the city, except that ordinances and amendments may be published by posting in the following places:

- A. City Hall;
- B. Post Office;
- C. Buffalo Savings Bank.

3. The city clerk is hereby directed to promptly post such ordinances and amendments, and to leave them so posted for not less than ten (10) days after the first date of posting. The 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.

(Ord. 242 Sec. 2(A)(part), 1987: Code of Iowa, 1975,
Sec. 362.3 [1 and 2])

1-4.0105 AUTHENTICATION.

The clerk shall authenticate all such measures except motions with his signature, certifying the time and manner of publication when required.

(Ord. 242 Sec. 2(A)(part), 1987: Code of Iowa, 1975,
Sec. 380.7 [3])

1-4.0106 CERTIFY MEASURES.

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

(Ord. 2425 Sec. 2(A)(part), 1987: Code of Iowa, 1975, Sec.
380.11)

1-4.0107 RECORDS.

The clerk shall maintain the specified city records in the following manner:

1. Ordinances and Codes. He shall maintain copies of all effective city ordinances and codes for public use.

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

3. Maintenance. He shall maintain all city records for at least ten (10) years, except that ordinances, council proceedings and records and documents relating to real property transactions or bond issues must be maintained permanently. Bonds and coupons may be destroyed after two (2) years from the retirement of debt, and a record of destruction shall be placed with the original bond record.

4. Provide Copy. He shall furnish, upon request, a copy of any record, paper or public document, under his control to municipal officers and citizens based on the policy and fees adopted by council and on file in the clerk's office. He 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 and city code, are required to be attested by affixing of the seal.

5. Filing of Communications. He shall keep and file all communications and petitions directed to the council or to the city generally. He shall endorse thereon the action of the council taken upon matters considered in such communications and petitions.

(Ord. 406 § 1, 2006: Ord. 316, 1996; Ord. 242 Sec. 2(A)(part), 1987: Code of Iowa, 1975, Secs. 372.13 [3, 4 and 5] and 380.7 [4])

1-4.0108 ATTENDANCE AT MEETINGS.

At the direction of the council he shall attend meetings of committees, boards and commissions. He shall record and preserve a correct record of the proceedings of such meetings.

(Ord. 242 Sec. 2(A)(part), 1987: Code of Iowa, 1975,
Sec. 372.13 [4])

1-4.0109 ISSUE LICENSES AND PERMITS.

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

(Ord. 242 Sec. 2(A)(part), 1987: Code of Iowa, 1975,
Sec. 372.13 [4])

1-4.0110 NOTIFY APPOINTEES.

He shall inform all persons appointed by the mayor or council to offices in the city government of their position and the time at which they shall assume the duties of their office.

(Ord. 242 Sec. 2(A)(part), 1987: Code of Iowa, 1975, Sec.
392.13 [4])

1-4.0111 ELECTIONS.

The clerk shall accept the nomination petition of a candidate for a city office for filing if on its face it appears to have the requisite number of signatures and it is timely filed. He shall deliver all nomination petitions to the county commissioner of elections not later than five P.M. on the day following the last day on which nomination petitions can be filed.

(Ord. 242 Sec. 2(A)(part), 1987: Code of Iowa, 1975,
Sec. 376.4)

1-4.0112 CITY SEAL.

The city seal shall be in the custody of the clerk and shall be attached by him to all transcripts, orders and certificates which it may be necessary or proper to authenticate. The city seal shall be circular in form, in the center of which shall be the words "Seal" and around the margin the words "City of Buffalo, Scott County, Iowa."

(Ord. 242 Sec. 2(A)(part), 1987)

ARTICLE 2
CITY CLERK/TREASURER

1-4.0201 APPOINTMENT.

The city clerk/treasurer shall be appointed by the city council for a term of two (2) years.

(Ord. 311 (part), 1996; Ord. 217, 1983)

1-4.0202 COMPENSATION.

The city clerk/treasurer shall be paid four hundred dollars (\$400.00) per year, payable quarterly.

(Ord. 311 (part), 1996)

1-4.0203 DUTIES OF CITY CLERK/TREASURER.

The duties of the city clerk/treasurer shall be as follows:

(Ord. 311 (part), 1996; Code of
Iowa, 1975, Sec. 372.13 [4])

1. Custody of Funds. He shall be responsible for the safe custody of all funds of the city in the manner provided by law, and council direction.
2. Record of Fund. He shall keep the record of each fund separate.
3. Record Receipts. He shall keep an accurate record of all money or securities received by him on behalf of the city and specify the date, from whom, and for what purpose received.
4. Record Disbursements. He shall keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.
5. Special Assessments. He shall keep a separate account of all money received by him from special assessments.
6. Deposit Funds in Bank. He shall, upon receipt of monies to be held in his custody and belonging to the city, deposit the same in banks selected by the council in amounts not exceeding monetary limits authorized by the council.

7. Bank Reconciliation. He shall reconcile bank statements with his books and certify monthly to the council the balance of cash and investments of each fund and amounts received and disbursed.

8. Debt Service. He shall keep a register of all bonds outstanding and record all payments of interest and principal.

9. Reconciliation with Clerk. He shall reconcile his books with the clerk's every month.

10. Depository Declaration. He shall determine the anticipated level of bank deposits for making the depository declaration to the State Treasurer as required by Chapter 453, Code of Iowa, 1975, and file with the county treasurer a list of authorized depositories as required by Section 454.6, Code of Iowa, 1975.

11. Other Duties. He shall perform such other duties as specified by the council by resolution or ordinance.

1-4.0204 REFERENCES TO TREASURER.

The position of city treasurer shall be repealed and from the effective date of the ordinance codified in this section, the position shall be city clerk/treasurer. Any reference to treasurer in this code shall be hereafter known as city clerk/treasurer.

(Ord. 311, 1996)

ARTICLE 3
CITY ATTORNEY

1-4.0301 APPOINTMENT AND COMPENSATION.

The city attorney shall be appointed by majority vote of the council and receive such compensation as they shall establish by resolution.

(Code of Iowa, 1975, Sec. 372.13 [4])

1-4.0302 ATTORNEY FOR CITY.

The city attorney shall act as attorney for the city in all matters affecting the city's interest and appear on

behalf of the city before any court, tribunal, commission or board. He shall prosecute or defend all actions and proceedings when so requested by the mayor or council.

(Code of Iowa, 1975, Sec. 372.13 [4])

1-4.0303 POWER OF ATTORNEY.

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

(Code of Iowa, 1975, Sec. 372.13 [4])

1-4.0304 ORDINANCE PREPARATION.

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

(Code of Iowa, 1975, Sec. 372.13 [4])

1-4.0305 REVIEW AND COMMENT.

The city attorney shall make a written report to the council and interested department heads, giving his opinion on all contracts, documents, resolutions, or ordinances submitted to him or coming under his notice.

(Code of Iowa, 1975., Sec. 372.13 [4])

1-4.0306 OPINION ON CONTRACTS.

The city attorney shall, at the request of the council, offer a written opinion on and recommend alterations pertaining to contracts involving the city before they become binding upon the city.

(Code of Iowa, 1975, Sec. 372.13 [4])

1-4.0307 PROVIDE LEGAL OPINION.

The city attorney shall, upon request, give his legal opinion in writing upon all questions of law relating to city matters submitted by the council, any board or the head of any city department.

(Code of Iowa, 1975, Sec. 372.13 [4])

1-4.0308 ATTENDANCE AT COUNCIL MEETINGS.

The city attorney shall attend meetings of the council at the request of the council.

(Code of Iowa, 1975, Sec. 372.13 [4])

1-4.0309 PREPARE DOCUMENTS.

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

(Code of Iowa, 1975, Sec. 372.13 [4])

ARTICLE 5
PUBLIC WORKS DIRECTOR

1-4.0501 POSITION CREATED.

The position of public works director is hereby created.

(Ord. 284 (part), 1991: Ord. 220 (part), 1984)

1-4.0502 POWERS AND DUTIES.

Powers and duties of the public works director are as follows:

1. He shall be responsible to the city council.
2. He shall supervise all city employees with the exception of those covered in the city clerk ordinance and those pertaining to police matters.
3. He shall provide information as needed to the city council. He shall assist in formulating and advertising for bids.
4. He shall be responsible for the management, operation and maintenance of municipal utilities.
5. He shall submit a budget request to the city clerk for the annual city budget.
6. He shall supervise and aid in the construction and maintenance of streets, storm sewers and gutters and sanitary sewers.
7. He shall be responsible for and aid in garbage and trash disposal according to rules passed by the city council.

8. He shall, whenever ice or snow imperil travel on the city streets, be in charge of removing ice and snow from the streets and shall do whatever necessary and reasonable to make the streets as safe as possible.

9. He shall submit a monthly report of activities of the public works employees to the city council at each regularly scheduled city council meeting.

10. He shall keep the council informed as to necessary certifications for operators in the sewer and water departments.

11. He shall be responsible for the repair and maintenance of all municipal owned real estate and equipment.

12. He shall be able to call in part-time workers as needed from a previously approved list of applicants. He will be in charge of all contractors and part-time workers within the public works department.

13. He shall be allowed to spend up to seven hundred fifty dollars (\$750.00) as previously approved by the city council for equipment or repairs.

14. He must keep a written statement of designation of the person in charge of city operations in his absence with city council approval. City council may appoint or fill the position as they choose.

15. He must live in Iowa and live within twenty-five (25) miles of City Hall.

16. He shall supervise the position of building inspector and zoning enforcement officer.

(Ord. 371, 2001; Ord. 335, 1996; Ord. 317, 1996; Ord. 284 (part), 1991; Ord. 220 (part), 1984)

ARTICLE 6
EMPLOYEE CODE OF CONDUCT IN CERTAIN CONTRACT MATTERS

1-4.0601 PURPOSE.

The purpose of this code of conduct is to ensure the efficient, fair and professional administration of federal and state grant and loan funds in compliance with applicable federal and state standards, regulations and laws.

(Ord. 212, Sec. 1, 1982)

1-4.0602 APPLICATION.

The code of conduct applies to all officers, employees or agents of the city of Buffalo engaged in the award and/or administration of contracts supported by federal or state grant funds.

(Ord. 212, Sec. 2, 1982)

1-4.0603 REQUIREMENTS.

No officer, employee or agent of the city shall participate in the selection, award or administration of a contract supported by federal or state grant or loan funds, if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:

1. The employee, officer or agent;
2. Any member of his/her immediate family;
3. His/her partner or;
4. Any organization which employs, or is about to employ any of the above, has a financial or other interest in the firm elected to award.

The city's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or subcontractors.

(Ord. 212, Sec. 3(part), 1982)

1-4.0604 VIOLATIONS.

Violations of this code of conduct will invoke penalties and sanctions consistent with applicable federal and state laws.

(Ord. 212, Sec. 3(part), 1982)

ARTICLE 7
WASTEWATER TREATMENT PLANT OPERATOR

1-4.0701 WASTEWATER TREATMENT PLANT OPERATOR.

The wastewater treatment plant operator shall have the following duties:

1. Having direct responsibility for the overall administration, supervision, operation and maintenance of the wastewater treatment facility and the two (2) wastewater lift stations. Regular machinery lubrication, cleaning, painting and other maintenance requirements as needed. Shall cut grass, weeds, and brush, trim trees, rake leaves in and around treatment plant site. Collect and dispose of trash.

2. Having authority over all plant functions. Performs and analyzes laboratory tests, adjusts processes accordingly. Operating the treatment plant, controlling the flow and processing of wastewater and effluent. Keep laboratory area clean and maintain all equipment in a neat and orderly manner. Monitor gauges and control panels, interpret meter and gauge readings and test results to determine process requirements. When needed, open and close valves and gates manually and start and stop pumps to control and adjust the flow and treatment process.

3. Daily inspection of the plant to determine the efficiency of the plant operation and maintenance and, when needed, initiate operational changes and repair operations.

4. Review and coordinate all data and records for the use of the budget report and purchase requests, submitting them to the city council along with any major equipment purchases and plant improvements.

5. Be responsible for preparing and maintaining of all reports and records necessary in operation of the plant. Set up written plan of action in case of emergencies or other process failures. The operator must have a

written designation of the person in charge of operations at the plant in his absence.

6. Train new personnel when needed and maintain a high awareness of safety hazards around the plant.

7. Responsibility for maintaining effective communication with employees, government officials, and the general public. Be able to discuss plant operations with any visitor.

8. Operator keeps continuously informed of the best operating and maintenance practices. Be responsible to keep certification up to date.

9. Will be required to check the two (2) lift stations daily and be responsible for their operations and maintenance.

10. Be responsible to the public works director. The operation of the wastewater treatment facility may not always require a full forty (40) hour work week. When operations at the plant do not require a full eight (8) hour day, the operator should report to the public works director for other work assignments with city employees.

11. Operator must have and maintain the license grade of the Iowa Department of Natural Resources designation of this plant.

12. Operator must live in the state of Iowa and live within twenty-five (25) miles of the Buffalo City Hall at time of employment.

(Ord. 286, 1991)

1-4.0702 ASSISTANT WASTEWATER TREATMENT PLANT OPERATOR.

The assistant wastewater treatment plant operator shall have the following duties:

1. Perform and analyze laboratory tests and adjust processes accordingly.

2. Prepare reports and maintain records.

3. Operate the wastewater treatment plant. Controlling the flow and processing of wastewater and effluent.

4. Monitor gauges and control panels.

5. Observe variations in operating conditions.

6. Interpret meter and gauge readings and test results to determine process requirements.

7. Opening and closing valves and gates manually.

8. Starting and stopping pumps to control and adjust the flow and treatment process.

9. Cleaning equipment, lubricating machinery, painting, and performing other maintenance requirements.

10. Assume the responsibility of the operator in his or her absence.

11. Be responsible to the public works director. The operation of the wastewater treatment facility will not always require a full forty (40) hour work week. When operations at the plant do not require a full eight (8) hour day, the operator should report to the public works director for other assignments with city employees.

12. The assistant operator must obtain at least a license Grade No. 1 in wastewater or what license grade the Iowa Department of Natural Resources require at the time for that plant.

13. The assistant operator must be a resident of Iowa and live within twenty-five (25) miles of the Buffalo City Hall at time of employment.

(Ord. 285, 1991)

TITLE II - COMMUNITY PROTECTION
DIVISION 1 - LAW ENFORCEMENT
CHAPTER 1 - PUBLIC OFFENSES

ARTICLE I
PUBLIC PEACE

2.1-1.0101 ASSAULT AND BATTERY.

It shall be unlawful for a person to apply, or to threaten or attempt to apply, an unlawful and unpermitted physical force to the person of another in a rude and insolent manner, or with the intent to do physical harm, with the apparent ability to execute any attempt or threat.

(Code of Iowa, 1975, Sec. 694.1)

2.1-1.0102 AFFRAY.

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

(Code of Iowa, 1975, Sec. 727.1)

2.1-1.0103 DISTURBANCE OF PEACE: ASSEMBLIES.

It shall be unlawful for a person to make or excite any disturbance in a tavern, store or grocery, or at any election or public meeting, or other place where citizens are peaceably and lawfully assembled.

(Code of Iowa, 1975, Sec. 744.1)

2.1-1.0104 DISTURBING CONGREGATIONS OR OTHER ASSEMBLIES.

It shall be unlawful for a person to willfully disturb any assembly of persons met for religious worship by profane discourse or rude and indecent behavior, or by making a noise, either within the place of worship or so near as to disturb the order and solemnity of the assembly, or willfully to disturb or interrupt any school, school meeting, or literary society or other lawful assembly of persons.

(Code of Iowa, 1975, Sec. 744.2)

2.1-1.0105 DISTURBING OF PEACE: NOISE.

It shall be unlawful for a person to disturb the peace by excessive, loud or unusual noise, by blowing horns or ringing bells, or by the use of sirens, radios or any type of speaking devices or noise makers.

2.1-1.0106 UNLAWFUL ASSEMBLY AND RIOT.

It shall be unlawful for three (3) or more persons in a violent or tumultuous manner to assemble together to do or attempt to do an unlawful act, or when together to commit or attempt to commit an act, whether lawful or unlawful, in an unlawful, violent or tumultuous manner to the disturbance of others.

(Code of Iowa, 1975, Sec. 743.1 and 2)

2.1-1.0107 ASSAULTING POLICE OFFICERS.

It shall be unlawful for a person or persons to assault city police officers, or threaten or attempt to apply an unlawful and unpermitted use of physical force, or with the apparent ability to execute any attempt or threat. He shall be guilty of a misdemeanor, and be fined not more than one hundred dollars (\$100.00) or imprisoned in the county jail not more than thirty (30) days.

(Ord. 194, 1980)

2.1-1.0108 EXCESSIVE NOISE PROHIBITED DURING CERTAIN HOURS.

No persons or businesses shall be allowed to cause excessive noise as to disturb the peace of others before 6:00 A.M. and after 10:00 p.m. This shall include excessive, loud or unusual noise, by music, radios or any type of speaking devices or noisemakers, blowing horns or ringing bells, pounding of any type on construction or mechanical devices or projects, power saws of any type, any type of vehicle repairs or reconstruction, lawn or garden maintenance, noisy or bothersome animals, screaming or fighting, operation of any business not in the business zoned area causing a disturbing noise, or any other disturbing noises not within the 6:00 A.M. to 10:00 p.m. time limit. This excludes emergency vehicles, trains and normal boat and automobile traffic on designated routes.

(Ord. 259, 1989)

2.1-1.0109 NOISE DISTURBANCE FROM MOTOR VEHICLES.

1. It is unlawful for any person owning or operating a motor vehicle to create, cause, permit, produce, or play a radio, stereo, or similar device which produces or amplifies sound in such a manner as to create or cause a noise disturbance, which shall be defined as any sound which annoys or disturbs a reasonable person of normal sensitivities and which can be heard at a distance of fifty (50) feet or more from the source, when such motor vehicle is operated or parked on a public right-of-way or public property.

2. This section shall not apply to loud-speaker/public address systems and emergency signaling devices, including car alarms.

3. A person in violation of this section commits a simple misdemeanor and upon conviction shall be assessed a fine in the sum of twenty-five dollars (\$25.00) plus such applicable fees as surcharge and court costs.

4. If a person is found guilty or pleads guilty to a third or subsequent violation of this section occurring within a six-month period, each such violation shall result in a scheduled fine of one hundred dollars (\$100.00).
(Ord. 345, 1997; Ord. 342, 1997;
Iowa Code Secs. 805.8(1), 911.2)

ARTICLE 2
PUBLIC MORALS

2.1-1.0201 PROSTITUTION.

It shall be unlawful for any person to engage in, assist, or in any manner promote prostitution within the city. For the purpose of this section, the following acts are prohibited and the commission of any such act or acts shall constitute a violation of the city code.

1. Prostitutes. To resort to, use, occupy or inhabit for the purpose of prostitution or lewdness any house of ill-fame or place kept for such purpose, or to be found at any hotel, boarding house, store or other place, leading a life of prostitution.

(Code of Iowa, 1975, Sec. 724.1)

2. Soliciting. To ask, request or solicit another to have carnal knowledge with any male or female for a consideration or otherwise.

(Code of Iowa, 1975, Sec. 724.2)

3. Keeping House of Ill Fame. To keep a house of ill fame which is resorted to for the purpose of prostitution or lewdness.

(Code of Iowa, 1975, Sec. 724.3)

4. Leasing House For Prostitution. To let any house, knowing that the lessee intends to use it as a place or resort for the purpose of prostitution and lewdness, or knowingly permit such lessee to use the same for such purposes.

(Code of Iowa, 1975, Sec. 724.6)

2.1-1.0202 BLASPHEMOUS OR OBSCENE LANGUAGE.

It shall be unlawful for a person to use blasphemous or obscene language publicly, to the disturbance of the public peace and quiet.

(Code of Iowa, 1975, Sec. 728.1)

2.1-1.0203 VAGRANCY.

It shall be unlawful for a person to be at large, not in the care of some discreet person, in a state of vagrancy. For the purpose of this chapter, the following persons are vagrants:

(Code of Iowa, 1975, Sec. 746.6)

1. All common prostitutes and keepers of bawdy houses or houses for the resort of common prostitutes.

(Code of Iowa, 1975, Sec. 746.1)

2. All habitual drunkards, gamesters, or other disorderly persons.

(Code of Iowa, 1975, Sec. 746.1)

3. All persons wandering about and lodging in barns, outbuildings, tents, wagons or other vehicles, and having no visible calling or business to maintain themselves.

(Code of Iowa, 1975, Sec. 746.1)

4. All persons begging in public places, or from house to house, or persons inducing children or others to do so.

(Code of Iowa, 1975, Sec. 746.1)

5. All persons representing themselves as collectors of alms for charitable institutions under any false or fraudulent pretenses.

(Code of Iowa, 1975, Sec. 746.1)

2.1-1.0204 INDECENT PUBLIC EXPOSURE.

No person shall expose those parts of his or her body hereinafter listed to another in any public place, or in any place where such exposure is seen by another person or persons in any public place:

1. A woman's nipple, or aureole, or full breast, except as necessary in the feeding of any infant.

2. The pubic hair, pubes, perineum, or anus of a male or female, the penis or scrotum of a male, or the vagina of a female, excepting those body parts of an infant of either sex.

ARTICLE 3
MINORS

2.1-1.0301 CURFEW.

1. Definition. The term "minor" shall mean, in this section, any unemancipated person below the age of eighteen (18) years.

2. Time Limits. It is unlawful for any minor to be or remain upon any of the alleys, streets, or public places or places of business and amusement in the city between the hours of 10 pm and 5 am of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and the hours of 11 pm and 5 am on Friday and Saturday.

3. Exceptions. The restriction provided by Section

2.1-1.0301(2) shall not apply to any minor who is accompanied by a parent, legal guardian, or other adult authorized by a parent to accompany said minor; when the minor is traveling, via direct route, to or from a place of employment or in conjunction with employment duties; when the minor is traveling through the city from and to destinations outside the city and when such travel is by direct route; when the minor is returning home by a direct route from and within 30 minutes from the termination of a school, church, or government sponsored activity or event.

(Ord. 416, 2007)

2.1-1.0302 MINORS IN BILLIARD ROOMS.

It shall be unlawful for any person who keeps a billiard hall where beer is sold, or the agent, clerk, or employee of any such hall, to permit any minor under eighteen (18) years of age to remain in such hall or to take part in any of the games known as billiard or pool.

(Code of Iowa, 1975, Sec. 726.9)

2.1-1.0303 MINORS IN TAVERNS.

It shall be unlawful for any person under the age of eighteen (18) years of age to enter, remain in, or frequent a business establishment whose main purpose is to serve alcoholic beverages without their parent, guardian or responsible adult of age.

Minors may frequent a business establishment holding a retail liquor or beer permit whose main purpose is to serve food for the purpose of eating a meal between the hours of 7 AM and 8PM without their parent, guardian or responsible adult of age.

(Ord. 422, 2008)

2.1-1.0304 MINORS AND CIGARETTES OR TOBACCO.

It shall be unlawful for any person under the age of eighteen (18) years of age to be in possession of or smoking of any tobacco. The scheduled city fine will be twenty-five dollars (\$25.00).

(Ord. 350, 1997)

ARTICLE 4
PUBLIC HEALTH AND SAFETY

2.1-1.0401 SPITTING.

It shall be unlawful for a person to spit within any food establishment, restaurant, hotel, motor inn, cocktail lounge or tavern.

(Code of Iowa, 1975, Sec. 170.24)

2.1-1.0402 SALE OF TAINTED FOOD.

It shall be unlawful for a person to sell or offer for sale any tainted, unsound or rotten meat, fish, fowl, fruit, vegetables, eggs, butter, canned goods, packaged goods, or other articles of food, or to sell or offer for sale the flesh of any animal that was diseased.

2.1-1.0403 STENCH BOMBS.

It shall be unlawful to throw, drop, pour, explode, deposit, release, discharge or expose any stench bomb or tear bomb, or any liquid, gaseous or solid substance or matter of any kind that is injurious to persons or property, or that is nauseous sickening, irritating or offensive to any of the senses in, upon or about any theatre, restaurant, car, structure, place of business or amusement, or any place of public assemblage, or to attempt to do any of these acts, or to prepare or possess such devices or materials with intent to do any of these acts. This provision shall not apply to duly constituted police, military authorities, prison officials or peace officers in the discharge of their duties, or to licensed physicians, nurses, pharmacists and other similar persons licensed under the laws of this state; nor to any established place of business or home having tear gas installed as a protection against burglary, robbery or holdup, nor to any bank or other messenger carrying funds or other valuables.

(Code of Iowa, 1975, Sec. 732.10, 12 and 13)

2.1-1.0404 FIREWORKS.

1. Definition. The term "fireworks" shall mean and include any explosive composition, or combination of explosive substances, or article prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and shall include

blank cartridges, toy pistols, toy cannons, toy canes, or toy guns in which explosives are used, balloons which require fire underneath to propel the same, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or inflammable compound, or other device containing any explosive substance.

(Code of Iowa, 1975, Sec. 732.17)

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

Personal injury:	\$100,000 per person
Property damage:	\$50,000 per person
Total exposure:	\$1,000,000

This shall not be construed to prohibit any resident, dealer, manufacturer or jobber from selling such fireworks as are not herein prohibited; or the sale of any kind of fireworks provided the same are to be shipped out of state; or the sale or use of blank cartridges for a show or theater, or for signal purposes in athletic sports or by railroads, 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 sold for medicinal or fumigation purposes. Only the Buffalo fire department, under direction of the fire chief or his appointed other, shall be allowed to display fireworks.

(Ord. 326, 1996; Code of Iowa, 1975, Sec. 732.18)

2.1-1.0405 FALSE ALARMS.

It shall be unlawful for a person to give or cause to be given a false alarm of fire by setting fire to any com-

bustible material, or by crying or sounding an alarm, or by any other means, without cause.

(Code of Iowa, 1975, Sec. 714-31)

2.1-1.0406 IMPERSONATING AN OFFICER.

It shall be unlawful for a person to falsely assume to be a judge, magistrate, sheriff, deputy sheriff, peace officer, special agent of the Iowa department of public safety or conservation officer, and take upon himself to act as such or require anyone to aid or assist him in any manner.

(Code of Iowa, 1975, Sec. 740.5)

2.1-1.0407 RESISTING EXECUTION OF PROCESS.

It shall be unlawful for a person to knowingly or willfully resist or oppose any officer of this state, or any person authorized by law in serving or attempting to execute any legal writ, rule, order or process whatsoever, or to knowingly and willfully resist any such officer in the discharge of his duties without such writ, rule, order or process.

(Code of Iowa, 1975, Sec. 742.1)

2.1-1.0408 REFUSING TO ASSIST AN OFFICER.

If any person, being lawfully required by any sheriff, deputy sheriff, constable or other peace officer, willfully neglects or refuses to assist him in the execution of the duties of his office in any criminal case, or in any case of escape or rescue, he shall be considered to have violated the city code.

(Code of Iowa, 1975, Sec. 732.3)

2.1-1.0409 RESISTING ARREST.

It shall be unlawful for any person to attempt to escape from, or to forcibly resist, any peace officer while said officer is in the process of arresting such person or maintaining custody of such person.

(Ord. 213, 1982)

2.1-1.0410 ANTENNA AND RADIO WIRES.

It shall be unlawful for a person to allow antenna wires, antenna supports, radio wires or television wires to exist over any street, alley, highway, sidewalk, or public property.

(Code of Iowa, 1975, Sec. 364.12 [2])

2.1-1.0411 DISCHARGING WEAPONS.

It shall be unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns or firearms of any kind within the city limits except by authorization of the council.

2.1-1.0412 THROWING AND SHOOTING.

It shall be unlawful for a person to throw stones or missiles of any kind or to shoot arrows, rubber guns, slingshots, air rifles or other dangerous instruments or toys on or into any street, highway, alley, sidewalk or public place.

(Code of Iowa, 1975, Sec. 364.12 [2])

2.1-1.0413 INTERFERENCE WITH CITY OFFICERS.

It shall be unlawful for a person to interfere with or hinder any policeman, fireman, officer, or city official in the discharge of his duty.

2.1-1.0414 BARBED WIRE.

From and after September 1, 1975 it shall be unlawful for a person to use barbed wire to enclose land within the city limits without the consent of the council unless such land consists of ten acres or more and is used as agricultural land.

2.1-1.0415 CARRYING CONCEALED WEAPONS.

1. Prohibition, It shall be unlawful for any person, except as hereinafter provided, to go armed with or to carry, a dirk, dagger, sword, pistol, revolver, stiletto, metallic knuckles, pocket billy, sandbag, skull cracker, slug shot or other offensive or dangerous weapon, except hunting knives adapted and carried as such, concealed either on or about the person, except in one's own dwelling, house, place of business, or other land possessed by him. No person shall carry a pistol or revolver concealed on or about his person or whether concealed or otherwise in any vehicle operated by him, except in his dwelling house or place of business or on other land possessed by him, without a permit from the sheriff of the county.

(Code of Iowa, 1973, Sec. 695.2)

2. Exemptions, It shall be lawful to carry one or more unloaded pistols or revolvers for the purpose of lawful hunting, lawful sale or attempted sale, lawful exhibit or showing, or other lawful use, if such unloaded weapon or weapons are carried either (1) in the trunk compartment of a vehicle or (2) in a closed container which is too large to be effectively concealed on the person or within the clothing of an individual, and such container may be carried in a vehicle or in any other manner; and no permit shall be required therefore.

(Code of Iowa, 1975, Sec. 695.2)

2.1-1.0416 INHALATION OF CERTAIN FUMES.

1. Definition, For use in this section the following terms are defined:

A. "Cleaning solvent": shall mean any material or substance which contains hydro-carbons and has the capability of releasing toxic vapors.

B. "Gasoline": shall mean any petroleum product which gives off or otherwise releases toxic vapors.

C. "Model glue": shall mean any glue or cement of the type commonly used in the building of model airplanes, boats and automobiles, containing toluene, acetone or other solvent or chemical having the property of releasing toxic vapors.

2. Prohibition. It shall be unlawful for a person, for the purpose of causing a condition of euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, to intentionally smell or inhale the fumes from any nodal glue, gasoline, cleaning solvent or any other substance containing hydrocarbons or any other agents capable of releasing toxic vapors.

2.1-1.0417 DEPOSIT OF HUMAN BODY WASTE ON
STREETS.

It shall be unlawful to deposit any human body waste on city street(s) or in any undesignated area within the city limits of Buffalo.

(Ord. 192, 1980)

2.1-1.0418 DANGEROUS WEAPONS.

1. "Dangerous weapon" means any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed. Additionally, any instrument or device of any sort whatsoever which is actually used in such a manner as to indicate that the defendant intends to inflict death or serious injury upon the other, and which, when so used, is capable of inflicting death upon a human being, is a dangerous weapon. Dangerous weapons include, but are not limited to, any offensive weapon, brass knuckles, butterfly knife, dagger, razor, stiletto or concealed knife having a blade of three inches or longer in length, or nunchuku, sai, kama, tonfa, or throwing star.

2. No person shall sell, give, or otherwise supply offensive weapons as defined in subsection 1 of this section to any person knowing or having reasonable cause to believe him to be under eighteen (18) years of age, and no person or persons under eighteen (18) years of age shall individually or jointly have offensive weapons in his or their possession or control.

3. This section shall not apply to any of the following:

A. A person under eighteen (18) years of age, within a private home, and with the knowledge and consent of the parent or guardian;

B. A person under the age of eighteen (18) years of age upon the premises of a martial arts school or studio, such school possessing all licenses necessary to conduct the business of teaching and instructing persons in the martial arts and such person under the age of eighteen (18) having the written authorization to so participate from his or her parent or guardian.

C. Anyone violating any of the provisions of this section is guilty of a simple misdemeanor and upon conviction is subject to imprisonment not exceeding thirty (30)

days, or a fine not exceeding one hundred dollars (\$100.00). Each day that a violation continues to exist shall constitute a separate offense.

(Ord. 238, 1986)

ARTICLE 5
PUBLIC PROPERTY

2.1-1.0501 DEFACING PUBLIC GROUNDS.

It shall be unlawful for a person to cut, break or deface any tree or shrub on public property or on any public way by willfully defacing, cutting, breaking or injuring.

(Code of Iowa, 1975, Sec. 364.1 and 364.1 [2])

2.1-1.0502 INJURING NEW PAVEMENT.

It shall be unlawful for a person to 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, 1975, Sec. 364.1 [2])

2.1-1.0503 DESTROYING PARK EQUIPMENT.

It shall be unlawful for a person to destroy or injure any property or equipment in public swimming pools, playgrounds or parks by willfully defacing, breaking, damaging, mutilating or cutting.

(Code of Iowa, 1975, Sec. 364.1 [2])

2.1-1.0504 DEFACING PROCLAMATIONS OR NOTICES.

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

(Code of Iowa, 1975, Sec. 714.20)

2.1-1.0505 INJURY TO FIRE APPARATUS.

It shall be unlawful for a person to willfully destroy or injure any engine, hose, hook and ladder truck, or other thing used and kept for extinguishment of fires.

(Code of Iowa, 1975, Sec. 714.28)

2.1-1.0506 DAMAGE TO PUBLIC PROPERTY.

It shall be unlawful for a person to 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 to willfully tap, cut, injure, break, disconnect, connect, make 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 to aid or abet any other person in so doing.

(Code of Iowa, 1975, Sec. 716.7)

2.1-1.0507 INJURY TO CEMETERY PROPERTY.

It shall be unlawful for a person to willfully and maliciously destroy, mutilate, deface, injure or remove any tomb, vault, monument gravestone or other structure placed in any public or private cemetery or other fences, railing or other work for the protection or ornamentation of said cemetery, or of any tomb, vault, monument or gravestone, or other structure aforesaid, on any cemetery lot within such cemetery, or to willfully and maliciously throw or leave any rubbish, refuse, garbage, waste, litter or foreign substance within the limits of said cemetery, or to drive at an unusual and forbidden speed over avenues or roads in said cemetery, or to drive outside of said avenues and roads, and over the grass or graves of said cemetery.

(Code of Iowa, 1975, Sec. 714.23)

ARTICLE 6
PRIVATE PROPERTY

2.1-1.0601 TRESPASSING PROHIBITED.

It shall be unlawful for a person to commit one or more of the following acts:

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

(Code of Iowa, 1975, Sec. 729.1 [2a])

2. Vacate Property When Requested. Enter or remain upon or in private property without legal justification after being notified or requested to abstain from entering or to remote 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, 1975, Sec. 729.1 [2b])

3. Interfere With Lawful Use of Property. Enter upon or private property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

(Code of Iowa, 1975, Sec. 729.1 [2c])

4. Use of Property Without Permission. Be upon or in private property and use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

(Code of Iowa, 1975, Sec. 729.1 [2d])

2.1-1.0602 TELEGRAPH OR TELEPHONE WIRE TAPS.

It shall be unlawful for a person to wrongfully or unlawfully tap or connect a wire with the telephone or telegraph wires of any person engaged in the transmission of messages on telephones or telegraph lines.

(Code of Iowa, 1975, Sec. 716.8)

ARTICLE 7
DISCRIMINATORY HOUSING PRACTICES

2.1-1.0701 DECLARATION OF POLICY.

It is hereby declared to be the policy of the city in the exercise of its police power for the public safety, public health, and general welfare to assure equal opportunity to all persons to live in decent housing facilities regardless of race, color, religion, sex or national origin and, to that end, to prohibit discrimination in housing by any persons.

(Ord. 201, Sec. 1, 1980)

2.1-1.0702 DEFINITIONS.

When used herein:

1. "Real property" includes buildings, structures, lands, tenements, leaseholds, cooperatives and condominiums.
2. "Discrimination" or "discriminatory housing practice" means any difference in treatment based upon race, color, religion, sex, or national origin; or any act that is unlawful under this article.
3. "Person" includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations and all other groups or combinations.
4. "Owner" includes a lessee, sublessee, co-tenant, assignee, managing agent or other person having the right of ownership or possession, or the right to sell, rent or lease any housing accommodation.
5. "Financial institution" includes any person, as defined herein, engaged in the business of lending money or guaranteeing losses.
6. "Real estate broker" or "real estate salesman" includes any individual, qualified by law, who, for a fee,

come mission, salary or for other valuable consideration, or who with the intention or expectation of receiving or collecting same, lists, sells, purchases, rents, or leases any housing accommodations, including options thereupon, or who negotiates or attempts to negotiate such activities; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate a loan, secured by a mortgage or other encumbrance, upon transfer of any housing accommodation; or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, rental or lease of any housing accommodation through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

7. "Housing accommodation" or "dwelling" means any building, mobile home or trailer, structure, or portion thereof which is occupied as, or designed, or intended for occupancy, as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, mobile home or trailer, structure, or portion thereof or any real property, as defined herein, used or intended to be used for any of the purposes set forth in this subsection.

8. "Mortgage broker" means an individual who is engaged in or who performs the business or services of a mortgage broker as the same are defined by Texas Statutes.

9. "Open market" means the market which is informed of the availability for sale, purchase, rental or lease of any housing accommodation, whether informed through a real estate broker or by advertising by publication, signs or by any other advertising methods directed to the public or any portion thereof, indicating that the property is available for sale, purchase, rental or lease.

(Ord. 201, Sec. 2, 1980)

2.1-1.0703 UNLAWFUL PRACTICES.

In connection with any of the transactions set forth in this section which affect any housing accommodation on the open market, or in connection with any public sale,

purchase, rental or lease of any housing accommodation, it shall be unlawful within the city for a person, owner, financial institution, real estate broker or real estate salesman, or any representative of the above, to:

1. Refuse to sell, purchase, rent or lease, or deny to or withhold any housing accommodation from a person because of his race, color, religion, ancestry, national origin, sex or place of birth; or

2. To discriminate against any person in the terms, conditions or privileges of the sale, purchase, rental or lease of any housing accommodation, or in the furnishing of facilities of services in connection therewith; or

3. To refuse to receive or transmit a bona fide offer to sell, purchase, rent or lease any housing accommodation from or to a person because of his race, color, religion, ancestry, national origin, sex or place of birth; or

4. To refuse to negotiate for the sale, purchase, rental or lease of any housing accommodation to a person because of his race, color, religion, ancestry, national origin, sex or place of birth; or

5. To represent to a person that any housing accommodation is not available for inspection, sale, purchase, rental or lease when in fact it is so available, or to refuse to permit a person to inspect any housing accommodation, because of his race, color, religion, or national origin, sex or place of birth; or

6. To make, publish, print, circulate, post or mail, or cause to be made, published, printed, circulated, posted or mailed, any notice, statement or advertisement, or to announce a policy, or to sign or to use a form of application for the sale, purchase, rental, lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing of any housing accommodation, or to make a record of inquiry in connection with the prospective sale, purchase, rental, lease or financing

of any housing accommodation, which indicates any discrimination or any intent to make a discrimination;

7. To offer, solicit, accept or use a listing of any housing accommodation for sale, purchase, rental or lease with the understanding that a person may be subjected to discrimination in connection with such sale, purchase, rental or lease, or in the furnishing of facilities or services in connection therewith; or

8. To induce directly or indirectly, or attempt to induce directly or indirectly, the sale, purchase, rental or lease, or the listing for any of the above, or any housing accommodation by representing that the presence or anticipated presence of persons of any particular race, color, religion, sex or national origin or place of birth in the area to be affected by such sale, purchase, rental or lease will or may result in either:

A. The lowering of property values in the area,

B. An increase in criminal or antisocial behavior in the area, or

C. A decline in the quality of schools serving the area;

9. To make any misrepresentations concerning the listing for sale, purchase, rental or lease, or the anticipated listing for any of the above, or the sale, purchase, rental or lease of any housing accommodation in any area in the city for the purpose of inducing or attempting to induce any such listing or any of the above transactions; or

10. To engage in, or hire to be done, or to conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, cause panic, incite unrest or create or play upon fear, with the purpose of either discouraging or inducing, or attempting to induce, the sale, purchase, rental or lease, or the listing for any of the above, of any housing accommodation; or

11. To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this article, or because he has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, hearing or conference under this article; or

12. To aid, abet, incite, compel or coerce any person to engage in any of the practices prohibited by this article; or to obstruct or prevent any person from complying with the provisions of this article; or any order issued thereunder; or

13. By canvassing, to commit any unlawful practices prohibited by this article;

14. Otherwise to deny to, or withhold any housing accommodation from a person because of his race, color, religion, ancestry, national origin, sex or place of birth; or

15. For any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part, in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling, or to discriminate against him in the fixing of the amount, interest rate, duration, or other terms or conditions of such loans or other financial assistance, because of the race, color, religion, sex, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; or

16. To deny any qualified person access to or membership or participation in any multiple-listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him

in their terms or conditions of such access, membership, or participation, on account of race, color, religion, sex, or national origin.

(Ord. 201, Sec. 3, 1980)

2.1-1.0704 EXEMPTIONS.

This article shall not apply to:

1. A religious organization, association, or society or any non-profit institution or organization operating, supervised, or controlled by or in conjunction with a religious organization, association, or society, which limits the sale, rental, or occupancy, of dwellings which it owns or operates for other than commercial purpose to persons of the same religion, or which gives preference to such persons, unless membership in such a religion is restricted on account of race, color, sex or national origin;

2. A private club not in fact open to the public, which as an incident to its primary purpose or purposes, provides lodgings which it owns or operates for other than a commercial purpose, and which limits the rental or occupancy of such lodgings to its members or gives preference to its members;

3. Any single-family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single-family houses at any one time; provided further, that in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four-month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or served on his behalf, under any express or voluntary agreement, title to or any right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time; provided further, the sale or rental of any such single-family house shall be excepted from the application of this article only if such house is sold or rented:

A. Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person, and

B. Without the publication, posting or mailing, after notice, of any advertisement of written notice in violation of the provisions of 42 United States Code Section 3604 (c) or of Section 2.1-1.0703; but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title; or

4. Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence.

(Ord. 201, Sec. 4, 1980)

2.1-1.0705 PROCEDURE.

Any person aggrieved by an unlawful practice prohibited by this article may file a complaint with the city attorney within thirty days after the aggrieved person becomes aware of the alleged unlawful practice, and in no event more than sixty days after the alleged unlawful practice occurred. The city attorney or his duly authorized representative shall investigate each complaint and attempt to resolve each complaint. Failure to achieve a resolution acceptable to both parties and compliance with this article shall cause the city attorney to forward the complaint and his findings to appropriate state and federal officials.

(Ord. 201, Sec. 5, 1980)

2.1-1.0706 OTHER REMEDIES.

Nothing herein contained shall prevent any person from exercising any right or seeking any remedy to which he might otherwise be entitled or from filing his complaint with any appropriate governmental agency.

(Ord. 201, Sec. 6, 1980)

2.1-1.0707 PENALTIES.

Any person violating any provision of this article shall, upon conviction thereof, be punished as provided by law.

(Ord. 201, Sec. 7, 1980)

ARTICLE 8
DRUG PARAPHERNALIA

2.1-1.0801 DEFINITIONS.

The following words shall have the following meanings when used in this chapter:

1. The term "drug paraphernalia" means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Act. It includes, but is not limited to:

A. Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

B. Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

C. Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

D. Testing equipment used, intended for use, or designed for use in weighing or measuring controlled substances;

E. Scales and balances used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

F. Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;

G. Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana;

H. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;

I. Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;

J. Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;

K. Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;

L. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marijuana, cocaine, hashish, or hashish oil into the human body, such as:

(1) Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls,

(2) Water pipes,

(3) Carburetion tubes and devices,

(4) Smoking and carburetion masks,

(5) Roach clips, meaning objects used to hold burning material, such as a marijuana cigarette that has become too small or too short to be held in the hand,

(6) Miniature cocaine spoons and cocaine vials,

(7) Chamber pipes,

(8) Carburetor pipes,

(9) Electric pipes,

(10) Air-driven pipes,

(11) Chillums,

(12) Bongs,

(13) Ice pipes or chillers.

2. The term "controlled substance" means a controlled substance as defined in the Act.

3. The term "Act" means the Uniform Controlled Substances Act, Chapter 204, Code of Iowa, and regulations promulgated thereunder.

(Ord. 274, Sec. 1 (part), 1991)

2.1-1.0802 CRITERIA FOR DETERMINING DRUG
PARAPHERNALIA.

In determining whether an object is drug paraphernalia, a court and the police department should consider the following factors in addition to all other logically relevant factors:

1. Statements by an owner or by anyone in control of the object concerning its use;

2. Prior convictions, if any, of an owner, or of anyone in control of the object, under any state or federal law relating to any controlled substance;

3. The proximity of the object, in time and space, to a direct violation of the Act or this chapter;

4. The proximity of the object to controlled substances;

5. The existence of any residue of controlled substances on the object;

6. Direct or circumstantial evidence of the intent of an owner, or of anyone in control of the object, to deliver it to persons who he knows, or should reasonably know, intend to use the object to facilitate a violation of the Act or this chapter; the innocence of an owner, or of anyone in control of the object, as to a direct violation of the Act or this chapter should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia;

7. Instructions, oral or written, provided with the object concerning its use;

8. Descriptive materials accompanying the object which explain or depict its use;

9. National and local advertising concerning its use;

10. The manner in which the object is displayed for sale;

11. Whether the owner, or anyone in control of the object, is a legitimate supplier of like or related items to the community, such as a licensed distributor or dealer of tobacco products;

12. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise;

13. The existence and scope of legitimate uses for the object in the community;

14. Expert testimony concerning its use.

(Ord. 274, Sec. 1 (part), 1991)

2.1-1.0803 POSSESSION PROHIBITED.

It is unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Act.

(Ord. 274, Sec. 1 (part), 1991)

2.1-1.0804 MANUFACTURE OR DELIVERY PROHIBITED.

It is unlawful for any person to deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Act.

(Ord. 274, Sec. 1 (part), 1991)

2.1-1.0805 ADVERTISEMENT PROHIBITED.

It is unlawful for any person to place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of the advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.

(Ord. 274, Sec. 1 (part), 1991)

2.1-1.0806 PENALTY FOR VIOLATION.

Any person, firm, or corporation who violates any of the provisions of this chapter is guilty of a misdemeanor and upon conviction shall be fined up to one hundred dollars (\$100.00) or imprisoned in the county jail for not more than thirty (30) days.

(Ord. 274, Sec. 1 (part), 1991)

CHAPTER 2 - TRAFFIC CODE

ARTICLE 1
GENERAL PROVISIONS

2.1-2.0101 TITLE.

This chapter may be known and cited as the Buffalo Traffic Code".

2.1-2.0102 DEFINITIONS.

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

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

2. "Stand or Standing": shall mean the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or charging passengers.

3. "Stop": shall mean when required, the complete cessation of movement.

4. "Stop or Stopping": shall mean, when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic-control sign or signal.

5. "Business District": shall mean the territory contiguous to and including a highway when fifty percent (50%) or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business.

(Code of Iowa, 1975, Sec. 321.1 [57])

6. "Residence District": shall mean 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, 1975, Sec. 321.1 [58])

7. "School District": shall mean the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.

(Code of Iowa, 1975, Sec. 321.1 [59])

8. "Suburban District": shall mean all other parts of the city not included in the business, school or residence districts.

(Code of Iowa, 1975, Sec. 321.1 [60])

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

(Code of Iowa, 1975, Sec. 321.1 [45])

10. "Traffic Control Device": shall mean all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

(Code of Iowa, 1975, Sec. 321.1 [62])

2.1-2.0103 ADMINISTRATION AND ENFORCEMENT.

Provisions of this chapter and the Iowa law relating to motor vehicles and law of the road shall be enforced by the chief of police.

(Code of Iowa, 1975, Sec. 372.13 [4])

2.1-2.0104 POWER TO DIRECT TRAFFIC.

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

2.1-2.0105 TRAFFIC ACCIDENTS: 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 Public Safety. A copy of this report shall be filed with the city for the confidential use of the peace officers and shall be subject to the provisions of Section 321.271 of the Code of Iowa, 1973.

(Code of Iowa, 1975, Sec. 321.273 and 321.274)

2.1-2.0106 INVESTIGATION OF TRAFFIC ACCIDENTS.

The chief of police shall investigate all accidents reported. If sufficient evidence of a violation is found, proper action will be taken to punish the violator.

(64th G.A., Ch. 1088, Sec. 59 [4])

2.1-2.0107 TRAFFIC ACCIDENTS: STUDIES.

Whenever the accidents at any particular location become numerous, the chief of police shall conduct studies of such accidents and propose remedial measures.

(Code of Iowa, 1975, Sec. 372.13 [4])

2.1-2.0108 FILES MAINTAINED.

The chief of police shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions and complaints reported for each driver during the most recent three year period.

(Code of Iowa, 1975, Sec. 372.13 [4])

2.1-2.0109 HABITUAL TRAFFIC VIOLATORS.

The chief of police shall study the cases of all drivers charged with frequent or serious violations of the traffic laws or involved in frequent traffic accidents or any serious accident, and shall attempt to discover the reasons therefor, and shall take whatever steps are lawful and reasonable to prevent the same, or to have the license of such persons suspended or revoked as provided by state law.

(Code of Iowa, 1975, Sec. 321.201 - 321.215)

2.1-2.0110 ANNUAL SAFETY REPORTS.

The chief of police shall prepare annually a traffic report which shall be filed with the mayor and council.

Such report shall contain information on the number of traffic accidents, the number of persons killed and injured, the number and nature of violations, and other pertinent traffic data including plans and recommendations for future traffic safety activities.

(Code of Iowa, 1975, Sec. 372.13 [4])

ARTICLE 2 TRAFFIC CONTROL DEVICES

2.1-2.0201 INSTALLATION.

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

(Code of Iowa, 1975, Sec. 321.254 and 321.255)

2.1-2.0202 CROSSWALKS.

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

(Code of Iowa, 1975, Sec. 372.13 [4];
Code of Iowa, 1975, Sec. 321.255)

2.1-2.0203 TRAFFIC LANES.

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

(Code of Iowa, 1975,
Sec. 372.13 [4] and 321.255)

2.1-2.0204 STANDARDS.

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

(Code of Iowa, 1975, Sec. 321.255)

2.1-2.0205 COMPLIANCE.

No driver of a vehicle shall disobey the instructions of any official traffic-control device placed in accordance with the provisions of this chapter, unless at the time otherwise directed by a peace officer.

(Code of Iowa, 1975, Sec. 321.256)

ARTICLE 3
GENERAL REGULATIONS

2.1-2.0301 VIOLATION OF STATE REGULATIONS.

Any person who shall willfully fail or refuse to comply with any lawful order of a peace officer or direction of a fire department officer during a fire or other emergency incident, or who shall fail to abide by the provisions of this chapter and the applicable provisions of the following Iowa statutory laws relating to motor vehicles and the statutory law of the road is in violation of this chapter. The police department, when issuing citations, to simplify the code numbers for easier writing and reading by the county clerk, will implement the following: the code number will start with 2.1-2., followed by the last digits or digits and letter of the state code. (Example: Excessive speed is state code 321.285. City code will be written on citations 2.1-2.285. These sections of the Code of Iowa are:

1. Operating non-registered vehicles: 321.17.
2. Registration, License to Drive, Plates, Title, I.D., Motor Vehicle Rental.
 - A. Failure to carry registration card: 321.32;

- B. Registration violation: 321.34;
- C. Failure to properly display registration plates: 321.37;
- D. Failure to properly maintain registration plates: 321.38;
- E. Failure to give notice of address or name change: 321.41;
- F. Violation of title transfer: 321.45;
- G. Violation of new title/registration upon transfer to new owner: 321.46;
- H. Violation of title—vehicles acquired for resale: 321.48;
- I. Violations of title—out-of-state sale, junked/salvaged vehicles: 321.52;
- J. Registration required/certain non-resident carriers: 321.54;
- K. Registration required/other non-resident carriers: 321.55;
- L. Failure to have proper plates (mfr., transporter, dealer): 321.57;
- M. Failure to have proper records of special plates: 321.62;
- N. Failure to deliver/acquire certif. of title upon sale/purchase: 321.67;
- O. Operation without registration: 321.98;
- P. Violations—certificate of title: 321.104;
- Q. Failure to have valid license/permit for operating mtr. vehicle: 321.174;

- R. Operating with expired license: 321.174A;
- S. Violation of conditions of restrictions of a license: 321.193;
- T. Violations of conditions of minor's school license: 321.194;
- U. Violation of out-of-service order: 321.208A;
- V. Unlawful use of license or non-operator's I.D. card: 321.216;
- W. Falsifying licenses and forms and non-operator's I.D. cards: 321.216A;
- X. Use of license by underage person to obtain alcohol: 321.216B;
- Y. Operating without valid license or when disqualified: 321.218;
- Z. Permitting unauthorized minor to drive: 321.219;
- AA. Permitting unauthorized person to drive: 321.220;
- BB. Employing unlicensed chauffeur: 321.221;
- CC. Renting motor vehicle to another: 321.222;
- DD. Motor vehicle license inspection for motor vehicle rental: 321.223;
- EE. Record kept of rental: 321.224;
- FF. Failure to prove security against liability (non accident related): 321.20B;
- GG. Failure to prove security against liability (accident related): 321.208.

3. Obedience to Peace Officer and Responsibility of Public Officers and Emergency Vehicles to Obey Traffic Regulations.

A. Failure to comply with lawful order of peace officer: 321.229;

B. Public officers not exempt: 321.230;

C. Failure of driver of emergency vehicle to exercise caution: 321.231;

D. Radar jamming devices: 321.232;

E. Road worker exempted: 321.233;

F. Failure to observe seating requirements: 321.234.

4. Traffic Signs, Signals and Markings.

A. Failure to obey traffic control device: 321.256;

B. Failure to yield to pedestrian within intersection: 321.257(2H);

C. Failure to respond to yellow (caution) signal: 321.257(2B);

D. Vehicles failure to respond to steady red signal: 321.257(2A);

E. Pedestrians and bicyclists failing to stop: 321.257(2A);

F. Failure to yield-pedestrian-crosswalk under grn arrow: 321.257(2D);

G. Failure to obey flashing red stop signal: 321.257(2E);

H. Failure to obey flashing yellow signal: 321.257(2F);

- I. Unauthorized signs, signals and markings:
321.259;
- J. Interference with devices, signs or signals:
321.260.
- 5. Accidents and Accident Reporting.
 - A. Reporting accidents: 321.266;
 - B. Driver unable to report: 321.268.
- 6. Operation of Motorcycles and Motorized Bicycles.
 - A. (1-8) Motorcycle and motorized bicycles violations: 321.275;
 - B. Failure to display safety flag: 321.275.
- 7. Reckless Driving, Drag Racing, Alcohol in Vehicle, Speed, Control or Vehicle and Minimum Speed.
 - A. Careless driving: 321.277A;
 - B. Drag racing prohibited: 321.278;
 - C. Open containers of alcohol in motor vehicles:
321.284;
 - D. Excessive speed: 321.285;
 - E. Failure to maintain control: 321.288;
 - F. Failure to maintain minimum speed: 321.294;
 - G. Excessive speed on bridge: 321.295.
- 8. Driving on Right, Meeting, Passing, Overtaking, Following and Towing.
 - A. Driving on wrong side of two-way highway:
321.297;

- B. Failure to yield half of roadway upon meeting vehicle: 321.298;
- C. Passing on wrong side: 321.299;
- D. Overtaking on the right: 321.302;
- E. Unsafe passing: 321.303;
- G.(1) Passing on grade or hill,
 - (2) Passing too near a bridge, intersection or rail crossing,
 - (3) Passing contrary to highway signs or markings: 321.304;
- H. Violating one-way traffic designation: 321.305;
- I. Improper use of lanes: 321.306;
- J. Following too closely: 321.307;
- K. Following too closely (trucks and towing vehicles): 321.308;
- L. Failure to use approved drawbar: 321.309;
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- 9. Turning and Starting, Signals on Turning and Stopping.
 - A. Turning from improper lane: 321.311;
 - B. Making U-turn on curve or hill: 321.312;
 - C. Unsafe starting of a stopped vehicle: 321.313;
 - D. Unsafe turn or failure to give signal: 321.314;
 - E. Failure to give continuous turn signal: 321.315;

- F. Failure to signal stop or rapid deceleration: 321.316;
 - G. Signal light requirements—see equipment violation: 321.317;
 - H. Incorrect hand signal: 321.318.
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- A. Failure to yield to vehicle on right: 321.319;
 - B. Failure to yield upon left turn: 321.320;
 - C. Failure to yield upon entering through highway: 321.321;
 - D. Failure to obey stop or yield sign: 321.322;
 - E. Unsafe backing on highway: 321.323;
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 - B. Pedestrian walking on wrong side of highway: 321.326;
 - C. Pedestrian right of way: 321.327;
 - D. Pedestrian failing to use crosswalk: 321.328;
 - E. Vehicle failing to yield to pedestrian: 321.329;
 - F. Use of crosswalks: 321.330;
 - G. Soliciting ride from within roadway: 321.331;
 - H. Unlawful use of white cane: 321.332;

- I. Failure to yield to a blind person: 321.333;
- J. Driving in or through safety zone: 321.340.
- 12. Railroad Crossings.
 - A. Failure to properly stop at railroad crossing: 321.341;
 - B. Failure to obey stop sign at railroad crossing: 321.342;
 - C. Failure to stop cargo or passenger vehicle at r.r. crossing: 321.343;
 - D. Unlawful moving of construction equipment across r.r. track: 321.344.
- 13. Stopping, Standing or Parking.
 - A. Unsafe entry into sidewalk or roadway: 321.353;
 - B. Stopping on traveled part of highway: 321.354;
 - C. Disabled vehicle: 321.355;
 - D. Officers authorized to remove: 321.356;
 - E. Removed from bridge: 321.357;
 - F. Stopping, standing or parking where prohibited: 321.358;
 - G. Moving other vehicle: 321.359;
 - H. Parking too far from curb/angular parking: 321.361;
 - I. Parking without stopping engine and setting brake: 321.362.
- 14. Obstructing Driver's View, Hazardous Materials, Crossing Median, Following Fire Apparatus or Crossing Fire Hose, Putting Debris on Streets.

- A. Driving with obstructed view or control:
321.363;
 - B. Contaminated food/hazardous materials: 321.364;
 - C. Coasting upon downgrade: 321.365;
 - D. Improper use of median, curb or controlled access facility: 321.366;
 - E. Failure to maintain distance from fire-fighting vehicle: 321.367;
 - F. Crossing unprotected fire hose: 321.368;
 - G. Putting debris on highway: 321.369;
 - H. Failure to remove debris from highway: 321.370;
 - I. Clearing up wrecks: 321.371.
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- A.(1) Failure of school bus driver to use appropriate signals,
 - (2) Improper discharge of school bus passengers,
 - (3) Unlawful passing of school bus: 321.372.
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- B. Insufficient number of headlamps: 321.385;
- C. Insufficient number of headlamps—
motorcycles/motor bikes: 321.386;
- D. Improper rear lamp(s): 321.387;
- E. Improper registration plate lamp: 321.388;
- F. Improper rear reflector: 321.389;
- G. Reflector requirements: 321.390;
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- J. Lighting device color and mounting: 321.393;
- K. No lamp or flag on rear-projecting load:
321.394;
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- M. Exception: 321.396;
- N. Improper light on bicycle: 321.397;
- O. Improper light on other vehicle: 321.398;
- P. Improper use of spotlight: 321.402;
- Q. Improper use of auxiliary driving lights:
321.403;
- R. Improper brake light: 321.404;
- S. Self-illumination: 321.405;
- T. Cowl Lamps: 321.406;
- U. Back-up lamps: 321.408;

- V. Improperly adjusted headlamp: 321.409;
- W. Failure to dim: 321.415;
- X. Alternate road-lighting equipment: 321.418;
- Y. Improper headlighting when driving: 321.419;
- Z. Excessive number of driving lights: 321.420;
- AA. Special restrictions on lamps: 321.421;
- BB. Lights of improper color—front and rear:
321.422;

CC.(2) Unauthorized use of emergency vehicle lighting equipment,

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- A. Defective braking equipment: 321.430;
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- C. Defective audible warning device: 321.432;
- D. Unauthorized use of emergency audible warning devices: 321.433;
- E. Use of siren or whistle on bicycle: 321.434;
- F. Defective or unauthorized muffler system:
321.436;
- G. Failure to meet mirror requirements,

Failure to have proper exterior mirror (towing):
321.437;

H.(1,3) Windshield/windows requirements,

(2) Dark window/windshield: 321.438;

I. Defective windshield wiper: 321,439;

J. Defective tires: 321.440;

K. Unauthorized use of metal tire or track:
321.441;

L. Unauthorized use of metal projections on wheels:
321.442;

M. Failure to use safety glass: 321.444;

N. Failure to maintain or use safety belts:
321.445;

O. Failure to secure child: 321.446;

P. Failure to comply with safety regulations rules,
Operation by unqualified driver,

Max. hours of service violation/hours of service evi-
dence violation,

Operation of maximum hours: 321.449;

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B. Exceptions: 321.453;

C. Width and length violations: 321.454;

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E. Excessive height: 321.456;

F. Excessive length: 321.457;

G. Excessive projection from front of vehicle: 321.458;

H. Excessive weight--dual axles (each 2000 lb. over): 321.459;

I. Spilling loads on highway: 321.460;

J. Excessive tow-bar length: 321.461;

K. Failure to use required towing equipment: 321.462;

L. Fines for overloads on axles (see schedule): 321.463;

M. Weighing vehicles and removal of excess: 321.465;

N. Gross wt. in excess of registered gr. wt. (for ea. 2000 lb.): 321.466.

(Ord. 380,2002: Ord. 351, 1997;
Ord. 343, 1997; Iowa Code Secs.
321.98, 805.8(1), 911.2;
Ord. 254, Sec. 1, 1988)

2.1-2.0302 PLAY STREETS DESIGNATED.

The chief of police shall have 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 any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed

area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Code of Iowa, 1975, Sec. 321.255)

2.1-2.0303 VEHICLES ON SIDEWALKS.

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

2.1-2.0304 CLINGING TO VEHICLES.

No person shall drive a motor vehicle on the streets of the city unless all passengers of said vehicle are inside the vehicle in the place intended for their accommodation. No person 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 to any vehicle upon a roadway.

2.1-2.0305 MUFFLERS.

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

(Code of Iowa, 1975, Sec. 321.436)

2.1-2.0306 QUIET ZONES.

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

2.1-2.0307 SCHOOL BUSES.

1. Signals. The driver of any school bus used to transport children to and from a public or private school shall, when stopping to receive or discharge pupils at any point within the city, turn on the flashing stop warning signal lights at a distance of not less than one hundred (100) feet, nor more than three hundred (300) feet from the point where said pupils are to be received or discharged from the bus. At the point of receiving or discharging pupils the driver of the bus shall bring the bus to a stop and extend the stop arm. After receiving or discharging pupils, the bus driver shall turn off the flash-

ing stop warning lights, retract the stop arm and then proceed on the route. No school bus shall stop to load or unload pupils unless there is at least three hundred (300) feet of clear vision in each direction.

(Code of Iowa, 1975, Sec. 321.372 [1])

2. Lights On. The driver of a school bus shall, while carrying passengers, have its headlights turned on.

(Code of Iowa, 1975, Sec. 321.372 [1])

3. Discharging Pupils. All pupils shall be received and discharged from the right front entrance of every school and if said pupils must cross the street or highway, they shall be required to pass in front of the bus, look in both directions, and proceed to cross the street or highway only on signal from the bus driver.

(Code of Iowa, 1975, Sec. 321.372 [2])

4. Passing Prohibited. The driver of any vehicle overtaking a school bus shall not pass a school bus when flashing stop warning signal lights are flashing and shall bring said vehicle to a complete stop not closer than fifteen (15) feet of the school bus when it is stopped and stop arm is extended, and shall remain stopped until the stop arm is retracted and school bus resumes motion, or until signaled by the driver to proceed.

(Code of Iowa, 1975, 321.372 [3])

5. Application. This section shall apply to the business, residential and suburban districts of the city.

(Code of Iowa, 1975, Sec. 321.372 [4])

2.1-2.0308 FUNERAL OR OTHER PROCESSIONS.

Identified. A funeral or other procession composed 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 chief of police.

(Code of Iowa, 1975, Sec. 321.236 [3])

2. Manner of Driving. Each driver in a funeral or other procession shall drive as near to the right hand of the roadway as practical and shall follow the vehicle ahead as closely as is practical and safe.

(Code of Iowa, 1975, Sec. 321.236 [3])

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

(Code of Iowa, 1975, Sec. 321.236 [3])

2.1-2.0309 USE OF STREETS FOR STORAGE OF VEHICLES
RESTRICTED.

A person owning any vehicle or special mobile equipment (such as camping trailers, motor homes, campers, "fifth wheel motor homes," boats, trailers, boats and trailers) shall not leave parked on city streets or city property, without written consent from the city clerk's office, the aforementioned for a length of time not to exceed forty-eight (48) hours. When the vehicle or special mobile equipment or boats and/or trailers is left parked upon a city street or city property for a continuous period of forty-eight (48) hours or more, a diligent effort shall first be made to locate the owner. If the owner is found in this search, he shall be given the opportunity to remove the vehicle in due haste. If the owner cannot be found, he may be charged and collected upon a simple notice of a fine not exceeding fifteen dollars (\$15.00), plus in addition, all towing fees, to the city clerk. One hundred (100) percent of all fines collected by this city shall be retained by the city.

(Ord. 328, 1996: Ord. 197, 1980)

2.1-2.0310 JAKE BRAKES.

No driver of any vehicle within the city limits of Buffalo equipped with jake brakes shall use such jake brakes unless it is needed in case of an emergency or public safety. The city shall place signs at both east Front Street and west Front Street describing this section.

(Ord. 400, 2005)

ARTICLE 4
SPEED REGULATIONS

2.1-2.0401 GENERAL.

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

(Code of Iowa, 1975, Sec. 321.285)

2.1-2.0402 BUSINESS DISTRICT.

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

(Code of Iowa, 1975, Sec. 321.285 [1])

2.1-2.0403 RESIDENCE OR SCHOOL DISTRICT.

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

(Code of Iowa, 1975, Sec. 321.285 [2])

2.1-2.0404 SUBURBAN DISTRICT.

A speed in excess of forty-five (45) miles per hour in any suburban district, unless specifically designated otherwise in this article, is unlawful.

(Code of Iowa, 1975, Sec. 321.285 [4])

2.1-2.0405 PARKS, CEMETERIES AND PARKING LOTS.

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

(Code of Iowa, 1975,
Sec. 321.236 [5] and Sec. 714.23)

2.1-2.0406 MINIMUM SPEED.

No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable

movement of traffic, except when reduced speed is necessary for safe operation, or in compliance with law.

(Code of Iowa, 1975, Sec. 321.294)

2.1-2.0407 EMERGENCY VEHICLES.

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

(Code of Iowa, 1975, Sec. 321.296)

2.1-2.0408 ALLEYS.

1. The maximum speed on all alleys in Buffalo shall be ten (10) miles per hour.

2. Parking in any alley shall be prohibited except to receive or make deliveries. Such vehicles shall be limited to five (5) minute parking at any one (1) time.

3. Any person found guilty of violating any part of this section shall be subject to a fine not to exceed one hundred dollars (\$100.00) or thirty (30) days imprisonment in the county jail or both.

(Ord. 318, 1996; Ord. 176, Secs. 3, 4 and 7, 1977)

2.1-2.0409 HIGHWAY 22.

The following speed limits hereby govern the speeds on Iowa Highway 22 in the incorporated limits of the city:

1. Thirty-five (35) miles per hour from Sta. 143.40 (WCL) to Sta. 195-00;

2. Forty-five (45) miles per hour from Sta. 195-00 to Sta. 205.00;

3. Fifty (50) miles per hour from Sta. 205-00 to Sta. 301.20 (ECL).

(Ord. 171, Secs. 2 and 3, 1976)

2.1-2.0410 Y-48.

The speed limit on 110th Avenue (a/k/a Y-48 or landfill road) shall be forty-five (45) miles per hour effec-

tive immediately upon passage and publication of the ordinance codified in this section as provided by law. This is the area only within the city limits.

(Ord. 257, 1988: Ord. 178, Sec. 2, 1978)

2.1-2.0411 Y-40.

The speed limit of all vehicular traffic on Y-40 between State Highway No. 22 and the city limits to the north shall be set at forty-five (45) miles per hour.

(Ord. 200, Sec. 1, 1980: Ord. 196, Sec. 1, 1980)

2.1-2.0412 SCHOOL DISTRICT.

A school district zone shall be established along Jefferson Street from the beginning of the south property line of the Buffalo Elementary School, and ending at the north driveway of the cemetery. The speed limit in this school district zone shall be limited to twenty-five (25) miles per hour.

(Ord. 379, 2002)

ARTICLE 5
TURNING REGULATIONS

2.1-2.0501 AUTHORITY TO MARK.

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

(Code of Iowa, 1975, Sec. 321.311)

2.1-2.0502 "U" TURNS.

It shall be unlawful for a driver to take a "U" turn except at an intersection provided, however, that "U" turns are prohibited at intersections within the business district and at intersections where there are automatic traffic signals.

(Code of Iowa, 1975, Sec. 331.255)

ARTICLE 6
STOP REQUIRED

2.1-2.0601 SPECIAL STOPS REQUIRED.

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

Vehicle On	Traveling	Shall Stop At
Ash Street	East and West	Oak Street
Chestnut Street	West	Elm Street
Chestnut Street	East	Maple Street
Clark Street	North and South	Fifth Street
Clark Street	North and South	Third Street
Dodge Street	North and South	Fourth Street
Fifth Street	East and West	Clark Street
Fifth Street	East and West	Dodge Street
Fourth Street	East and West	Clark Street
Fourth Street	East	Dodge Street
Fourth Street	East and West	Franklin Street
Fourth Street	East and West	Hacker Street
Fourth Street	East and West	Jefferson Street
Fourth Street	East and West	Washington Street
Franklin Street	South	Fifth Street
Hacker Street	South	Fifth Street
Jefferson Street	North and South	Second Street
Main Street	North	Fourth Street
Main Street	North and South	Third Street
Maple Street	South	Fourth Street
Oak Street	North and South	Chestnut Street
Second Street	East and West	Clark Street
Second Street	East	Dodge Street
Second Street	East and West	Franklin Street
Second Street	East and West	Hacker Street
Second Street	East and West	Jefferson Street
Second Street	East and West	Main Street
Second Street	East and West	Washington Street
Sixth Street	East	Dodge Street
Sixth Street	West	Franklin Street
Sixth Street	East	Hacker Street
Spruce Street	East	Elm Street
Third Street	East	Dodge Street
Third Street	East and West	Franklin Street

Vehicle On	Traveling	Shall Stop At
Third Street	East and West	Hacker Street
Third Street	East and West	Jefferson Street
Third Street	East and West	Washington Street
Walnut Street	West	Elm Street
Walnut Street	East	Maple Street
Walnut Street	East and West	Oak Street
Washington Street	South	Fourth Street

(Ord. 319, 1996; Ord. 295, 1992; Ord. 279, 1991; Ord. 231, 1984; Ord. 230, 1984; Ord. 229, 1984; Ord. 228, 1984; Ord. 227, 1984; Ord. 226, 1984; Ord. 225, 1984; Ord. 183, 1979)

2.1-2.0602 (RESERVED)

2.1-2.0603 STOP AT FIFTH AND DODGE.

1. All traffic shall stop at Fifth and Dodge Streets with the exception of winter months when the northbound stop sign is covered; then northbound traffic shall proceed with due caution.

(Ord. 189, 1980)

2. The stop sign on the northwest corner of Fifth and Dodge that applies to drivers going south on Dodge Street will be in force all year and will not be covered during the winter months. The northbound stop sign on the southeast corner at Fifth and Dodge will continue to be covered during the winter months.

(Ord. 253, 1988)

2.1-2.0604 STOP AT FRANKLIN AND THIRD.

Stop signs shall be placed facing north and south on Franklin Street at the intersection with Third Street.

(Ord. 236, 1986)

2.1-2.0606 STOP AT THIRD AND HACKER.

A stop sign will be placed at this intersection facing north and south on Hacker Street at Third Street. The stop sign facing south on Hacker Street at Third Street will not be covered (or removed) and will be enforced. Northbound traffic shall proceed with due caution.

(Ord. 357, 1998; Ord. 321, 1996)

2.1-2.0607 STOP AT THIRD AND WASHINGTON.

A stop sign shall be placed at this intersection facing south on Washington Street and Third Street.

Northbound traffic shall proceed with due caution.

(Ord. 370 (part), 2000)

2.1-2.0608 STOP AT SECOND AND WASHINGTON.

A stop sign shall be placed at this intersection facing north on Washington Street at Second Street.

Southbound traffic shall proceed with due caution.

(Ord. 370 (part), 2000)

2.1-2.0609 STOP AT DODGE AND THIRD STREET.

A stop sign shall be placed at this intersection facing south. Northbound traffic shall proceed with due caution.

(Ord. 429, 2009)

ARTICLE 7

LOAD AND WEIGHT RESTRICTIONS

2.1-2.0701 TEMPORARY EMBARGO.

The city council may declare by ordinance or resolution a limit or restriction on the weight of vehicles to be operated on a street or highway within the city limits, for a period of not to exceed ninety (90) days in any one calendar year, when it appears that the street or highway by reason of deterioration, rain, snow or other climatic conditions, will be seriously damaged or destroyed unless the permitted weight of vehicles is reduced. This section shall not apply to implements of husbandry as defined by state law or implements of husbandry loaded on hauling units for transporting the implements to locations for purposes of repair. The city shall erect and maintain signs which designate the ordinance or resolution and the weight limit or restrictions imposed, at each end of the designated street or highway. No vehicles shall be operated in violation of such signs.

(Ord. 297, Sec. 1(part), 1992: Code of Iowa, 1975, Sec. 321.471 and 321.472)

2.1-2.0702 PERMITS FOR EXCESS WEIGHT.

The police chief for the city may, upon application in writing and for good cause shown, issue special permits during the periods weight restrictions under 2.1-2.0701 are in effect, to permit the limited operation of vehicles upon specified routes with loads in excess of such weight restrictions or limitations. Such permits shall be issued upon a showing of a need to move to market farm produce of the type subject to rapid spoilage or loss of value, or to move any farm feeds or fuel for home heating purposes.

(Ord. 297, Sec. 1(part), 1992: Code of Iowa, 1975, Sec. 321.473 and 321 E.1)

2.1-2.0703 LOAD LIMITS UPON CERTAIN STREETS.

Iowa Highway No. 22, within the city limits is hereby closed to all truck traffic with a gross vehicle weight of ten (10) tons or more, with the following exceptions:

A. Trucks traveling from the east corporate limits of the city may pick up or unload cargo at any point from one hundred (100) feet from the centerline of Dodge Street east to the east corporate limits. Weight restrictions on these vehicles shall be governed by state law.

B. Any truck may use Iowa Highway No. 22 west of Dodge Street provided it does not exceed the weight restriction imposed by this section, or it is in the process of disposing of its cargo within the corporate limits of the city. Weight restrictions on any truck disposing of its cargo within the meaning of this section shall be governed by state law.

(Ord. 297, Sec. 1(part), 1992: Code of Iowa, 1975, Sec. 321.473 and 321.475)

2.1-2.0704 LOAD LIMITS ON BRIDGES AND CULVERTS.

Upon a finding by the city that a bridge or culvert does not meet established standards set forth by state and federal authorities, the city council may, by ordinance or resolution, impose limitations for an indefinite period of time on the weight of vehicles traveling upon any such bridge or culvert located upon a highway under the city's sole jurisdiction. Such ordinance or resolution shall not apply to implements of husbandry as defined by state law, or to implements of husbandry loaded on hauling units for

transporting the implements to locations for purposes of repair. Upon enacting any such ordinance or resolution, the city shall erect and maintain signs designating the ordinance or resolution and the weight limits imposed, at each end of that portion of any bridge or culvert affected thereby. No vehicle shall be operated upon or over a bridge or culvert in violation of such signs. The chief of police may, upon written application and for good cause shown, issue special permits allowing the operation over a bridge or culvert of vehicles with weights in excess of the restrictions imposed under the ordinance or resolution, but not in excess of any other load restrictions imposed by Iowa Code Chapter 321.

(Ord. 297, Sec. 1(part), 1992: Code of Iowa, 1975, Sec. 321.473)

ARTICLE 8 PEDESTRIANS

2.1-2.0801 USE SIDEWALKS.

Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent street.

2.1-2.0802 WALKING IN STREET.

Where sidewalks are not provided pedestrians shall at all times when walking on or along a street, walk on the left side of the street.

(Code of Iowa, 1975, Sec. 321.326)

2.1-2.0803 HITCH HIKING.

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

(Code of Iowa, 1975, Sec. 321.331)

2.1-2.0804 PEDESTRIAN CROSSING.

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

(Code of Iowa, 1975, Sec. 321.328)

ARTICLE 9
ONE WAY TRAFFIC
(RESERVED FOR FUTURE USE)

ARTICLE 10
PARKING REGULATIONS

2.1-2.1001 PARK ADJACENT TO CURB.

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

(Code of Iowa, 1975, Sec. 321.361)

2.1-2.1002 PARK ADJACENT TO CURB: ONE-WAY STREET.

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

(Code of Iowa, 1975, Sec. 321.361)

2.1-2.1003 PARKING PERMITTED.
(Reserved)

2.1-2.1004 ANGLE PARKING: MANNER.

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

(Code of Iowa, 1975, Sec. 321.361)

2.1-2.1005 PARKING FOR CERTAIN PURPOSES ILLEGAL.

No person shall park a vehicle upon the roadway for any of the following principal purposes:

(Code of Iowa, 1975, Sec. 321.236 [1])

1. Displaying such vehicle for sale.
2. For greasing or repairing such vehicle except such repairs as are necessitated by an emergency.
3. Displaying advertising.
4. Selling merchandise from such vehicle except in a duly established market place or when authorized or licensed under the city code.

2.1-2.1006 PARKING PROHIBITED.

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

1. Crosswalk. On a crosswalk at an intersection.
(Code of Iowa, 1975,
Sec. 321.236 [1] and 321.358 [5])
2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, 1975, Sec. 321.236 [1])
3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, 1975, Sec. 321.236 [1])
4. Sidewalks. On or across a sidewalk.
(Code of Iowa, 1975, Sec. 321.358 [1])
5. Driveway. In front of a public or private driveway.
(Code of Iowa, 1975, Sec. 321.358 [2])

6. Intersection. Within, or within ten (10) feet of an intersection of any street or alley.
(Code of Iowa, 1975, Sec. 321.358 [3])

7. Fire Hydrant. Within five (5) feet of a fire hydrant.
(Code of Iowa, 1975, Sec. 321.358 [4])

8. Stop Sign or Signal. Within ten (10) feet upon the approach to any flashing beacon, stop or yield sign, or traffic control signal located at the side of a roadway.
(Code of Iowa, 1975, Sec. 321.358 [6])

9. Railroad Crossing. Within fifty (50) feet of the nearest rail of a railroad crossing, except when parked parallel with such rail and not exhibiting a red light.
(Code of Iowa, 1975, Sec. 321.358[8])

10. Fire Station. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance when properly sign posted.
(Code of Iowa, 1975, Sec. 321.358 [9])

11. Excavations. Alongside or opposite any vehicle stopped or parked at the edge of a street.
(Code of Iowa, 1975, Sec. 321.358 [10])

12. Double Parking. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
(Code of Iowa, 1975, Sec. 321.358 [11])

13. Hazardous Locations. When, because of restricted visibility or when standing or parked vehicles would constitute a hazard to moving traffic, or when other traffic conditions require, the chief of police may cause curbs to be painted with a yellow color and erect no parking or standing signs.
(Code of Iowa, 1975, Sec. 321.358 [13])

14. Theaters, Hotels and Auditoriums. A space of fifty (50) feet is hereby reserved at the side of the

street in front of any theater, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxi-cab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, 1975, Sec. 321.360)

15. Controlled Access Facility Approach. On the minor street approach for a distance of thirty-five (35) feet in advance of the stop sign or on the exit side of the minor street for a distance of thirty-five (35) feet on any controlled access facility.

16. U.S. Highway No. 22. On either side of U.S. Highway No. 22 from station 188-77.5 (197.5 feet west of the west side of Dodge Street) to station 273-375-ECL (East Corporate Limits of the city).

17. No parking shall be allowed on the south side of East Front Street or West Front Street from the city limits on the east side to the city limits on the west side of the city. This is on the shoulder area of the roadway and the ditch areas.

(Ord. 256, 1988)

2.1-2.1007 SCHOOL HOUR PARKING RESTRICTIONS.

1. No parking shall be allowed during school hours on the north side and the south side of Fourth Street at the intersection of Dodge Street for a distance of thirty (30) feet west from the crosswalk going north and south, at Fourth and Dodge.

2. A fine of twenty-five dollars (\$25.00) shall be given to violators of this section.

(Ord. 281, 1991)

2.1-2.1008 (RESERVED)

2.1-2.1009 (RESERVED)

2.1-2.1010 (RESERVED)

2.1-2.1011 PARKING SIGNS REQUIRED.

Whenever by this article or any other section of the 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 no such regulations shall be effective unless signs are erected and in place at the time of any alleged offense. When the signs are so erected giving notice thereof, no person shall disobey the restrictions stated on such signs.

(Code of Iowa, 1975, Sec. 321.255 and 256)

2.1-2.1012 WHEN SNOWFALL OCCURS.

1. On even-numbered calendar days (example: December 4th), snow plowing will be done on the even-numbered addressed sides of the street. (Example is 402 Third Street.) Hereby designated even-numbered sides of the streets are the north sides and the west sides of all streets.

2. On odd-numbered calendar days (example: December 5th), snow plowing will be done on the odd-numbered addressed sides of the street. (Example is 409 Third Street.) Hereby designated odd-numbered sides of the streets are the south sides and the east sides of all streets.

3. These rules are in effect when a snowfall of two (2) or more inches occurs.

4. All vehicles must be moved from the side of the street that is being plowed and not be returned to that side until the snow is plowed to the curb.

5. Any vehicles not being moved may be towed by the city at the owner's expense.

(Ord. 309, 1995: Ord. 191, 1980)

2.1-2.1013 CERTAIN VEHICLE TYPES RESTRICTED.

It shall be unlawful to park or leave standing any tractor, trailer, or tractor-trailer combination on any city street within city limits.

(Ord. 329, 1996: Ord. 195, 1980)

2.1-2.1014 NO PARKING ZONES.

The north side of Front Street from Maple Street to Elm Street is designated as a no parking zone.

2.1-2.1015 RESTRICTED PARKING ON DESIGNATED STREETS.

1. No parking shall be allowed on the east side of Elm Street from West Front Street to Chestnut Street and no parking shall be allowed within thirty (30) feet on the west side of Elm Street from West Front Street north of the stop sign.

2. No parking shall be allowed on the east side of Oak Street from West Front Street to Chestnut Street and no parking shall be allowed within thirty (30) feet on the west side of Oak Street from West Front Street north of the stop sign. Thirty (30) minute parking limit will be enforced on the west side of Oak Street by the Buffalo Shores Marine Building.

3. Parking on the east side and west side of Maple Street from West Front Street to Chestnut Street shall be limited to a thirty (30) minute parking limit and no parking shall be allowed on either side from the stop sign north for thirty (30) feet. This is to reduce the parking problem for local businesses in that block and to reduce congestion in the area.

4. No Semi-trailer truck, tractor-trailer, or recreational vehicle shall be allowed to park along the north side of Front Street from Clark Street to Franklin Street.

5. The parking spot in front of 624 Front Street shall be limited to residential parking only.

(Ord. 446,2011; Ord. 418,2007; Ord. 262, 1989: Ord. 261,
1989;
Ord. 260, 1989)

2.1-2.1016 HANDICAPPED PARKING.

Four (4) handicapped parking slots shall be designated as such on the north side of Fourth Street, parallel with the present curb. Two (2) shall be to the east of the sidewalk running north and south to the front door of the church and two (2) shall be to the west of the aforementioned sidewalk. There shall be one handicap slot designated at 615 3rd Street parallel with the present curb. Handicapped parking signs shall be installed in these areas and enforced by the Buffalo, IA police department. Violators will be issued a citation in the amount of fifty dollars (\$50.00) for each violation of this designated handicapped parking area. A valid handicapped emblem or license plate must be on all vehicles in plain sight that are parked in these areas.

(Ord. 440,2010; Ord. 307, 1995)

2.1-2.1017 PARKING IN VIOLATION OF ZONING
ORDINANCE.

No parking of any vehicle shall be allowed on a public street or alley in violation of any zoning ordinance adopted in the city code.

(Ord. 355, 1997)

ARTICLE 11
ENFORCEMENT PROCEDURES

2.1-2.1101 ARREST OR CITATION.

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

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

2. Issue Citation. Without arresting the person, prepare in quadruplicate 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, a copy to the defendant and retain the fourth copy for the records of the city.

(Code of Iowa, 1975, Sec. 753.13 and 321.485)

2.1-2.1102 PARKING VIOLATIONS ALTERNATE.

Admitted violations of any parking restrictions imposed by this chapter may be charged upon a simple notice of a fine of one dollar (\$1.00) payable at the office of the city clerk.

(Code of Iowa, 1975, Sec. 321.236 [1a])

2.1-2.1103 PARKING VIOLATIONS: VEHICLE UNATTENDED.

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

(Code of Iowa, 1975, Sec. 753.13)

2.1-2.1104 PRESUMPTION IN REFERENCE TO ILLEGAL PARKING.

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

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

2.1-2.1105 IMPOUNDING VEHICLES.

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

1. Disabled Vehicle. When a vehicle is upon a roadway and is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle

are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

(Code of Iowa, 1975, Sec. 321.236 [1])

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

(Code of Iowa, 1975, Sec. 321.236 [1])

3. Snow Emergency. When any vehicle is left parked in violation of a ban on parking during a snow emergency as proclaimed by the mayor.

(Code of Iowa, 1975, Sec. 321.236 [12])

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

(Code of Iowa, 1975, Sec. 321.236 [1])

5. Parked Over Forty-Eight Hour Period. When any vehicle is left parked upon a street for a continuous period of forty-eight (48) hours or more. A diligent effort shall first be made to locate the owner. If the owner is found he shall be given an opportunity to remove the vehicle

(Code of Iowa, 1975, Sec. 321.236 [1])

2.1-2.1106 PARKING TICKETS.

1. The city council hereby ordains the use of parking tickets in the city as follows with amount of fines:

VIOLATION	FINE
A. Improper Parking	\$15.00
B. Double Parking	15.00
C. Parking In Alley	15.00
D. Parking In Restricted Zone	15.00
E. Blocking A Private Drive	15.00
F. Streets For Storage	15.00
G. Snow Ordinance	15.00
H. Parking Wrong Side Of Street	15.00

VIOLATION	FINE
I. Handicapped Parking Only	50.00
J. Other	

2. Vehicles will be towed if parking where prohibited at the owner's expense.

3. Citations may be paid at the City Hall. Warrants will be served for failure to pay the tickets. Tickets must be paid within three (3) days.

(Ord. 322, 1996; Ord. 268, 1990; Ord. 190, 1980)

CHAPTER 3 - BEER AND LIQUOR CONTROL

ARTICLE 1 GENERAL PROVISIONS

2.1-3.0101 DEFINITIONS.

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

1. "Person of Good Moral Character": shall mean any person who meets all of the following requirements.

(Code of Iowa, 1975, Sec. 123.3 [11])

A. He has such financial standing and good reputation as will satisfy the council and the director that he will comply with the Iowa Beer and Liquor Control Act and all other laws, ordinances and regulations applicable to his operations under state law.

B. He does not possess a federal gambling stamp.

C. He is not prohibited by the provision of Section 2.1-3.0225 from obtaining a liquor license or beer permit.

D. He is a citizen of the United States and a resident of Iowa, or licensed to do business in Iowa in the case of a corporation.

E. He has not been convicted of a felony. However, if his conviction of a felony occurred more than five (5) years before the application for a license or permit, and if his rights of citizenship have been restored by the Governor, the director may determine that he is a person of good moral character notwithstanding such conviction.

F. If such person is a corporation, partnership, association, club, or hotel or motel the requirements of this subsection shall apply to each of the officers, directors and partners of such person, and to any person who directly or indirectly owns or controls ten (10) percent or more of any class of stock of such person or has an interest of ten (10) percent or more in the ownership or profits of such person. For the purpose of this provision, an individual and his spouse shall be regarded as one (1) person.

2. "Club": shall mean any nonprofit corporation or association of individuals, which is the owner, lessee or occupant of a permanent building or part thereof, membership in which entails the prepayment of regular dues and is not operated for a profit other than such profits as would accrue to the entire membership.

(Code of Iowa, 1975, See. 123.3 [29])

3. "Commercial establishment": shall mean a place of business which is at all times equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one (1) time, and the licensed premises of which conform to the ordinances of the city.

(Code of Iowa, 1975, Sec. 123.3 [30])

4. "Grocery store": shall mean any retail establishment, the business of which consists of the sale of food products or beverages for consumption off the premises.

(Code of Iowa, 1975, Sec. 123.129)

5. "Pharmacy": shall mean a drug store in which drugs and medicines are exposed for sale and sold at retail, or in which prescriptions of licensed physicians and

surgeons, dentists or veterinarians are compounded and sold by a registered pharmacist.

(Code of Iowa, 1975, Sec. 123.129)

6. "Hotel or Motel": shall mean a premises licensed by the State Department of Agriculture and regularly or seasonally kept open in a bona fide manner for the lodging of transient guests, and with twenty (20) or more sleeping rooms.

(Code of Iowa, 1975, Sec. 123.3 [32])

7. "Legal age": shall mean twenty-one (21) years of age or older.

(Ord. 323, 1996)

8. "Director": shall mean the director of the Iowa beer and liquor control department, or his designee.

(Code of Iowa, 1975, Sec. 123.3 [3])

9. "Department": shall mean the Iowa beer and liquor control department.

(Code of Iowa, 1975, Sec. 123.3 [2])

2.1-3.0102 ILLEGAL KEEPING OF INTOXICANTS.

It shall be unlawful for a person to operate or conduct or allow to be operated, a place where intoxicating liquor is illegally kept, sold or given away.

(Code of Iowa, 1975, Sec. 123.2)

2.1-3.0103 STATE LIQUOR STORE: LOCATION.

No state liquor store shall be located within three hundred (300) feet of a public or private educational institution.

(Code of Iowa, 1975, Sec. 123.20 [2])

2.1-3.0104 PERSONS UNDER LEGAL AGE.

1. A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under legal age.

2. A person or persons under legal age shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their

possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence, and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under this chapter.

3.a. A person who is under legal age, other than a licensee or permittee, who violates this section regarding the purchase of or attempt to purchase alcoholic liquor, wine, or beer, commits the following:

(1) A simple misdemeanor punishable as a scheduled violation.

(2) A second offense shall be a simple misdemeanor punishable by a fine of five hundred dollars. In addition to any other applicable penalty, the person in violation of this section shall choose between either completing a substance abuse evaluation or the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

(3) A third or subsequent offense shall be a simple misdemeanor punishable by a fine of five hundred dollars and the suspension of the person's motor vehicle operating privileges for a period not to exceed one year.

3.b. The court may, in its discretion, order the person who is under legal age to perform community service work under Iowa Code Section 909.3A, of an equivalent value to the fine imposed under this section.

3.c. If the person who commits a violation of this section is under the age of eighteen, the matter shall be disposed of in the manner provided in Iowa Code Chapter 232.

(Ord. 438,2010; Ord.
430,2009)

2.1-3.0105 CONSUMPTION IN PUBLIC PLACES.

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

(Code of Iowa, 1975, Sec. 123.46)

2.1-3.0106 BROKEN SEAL ON LIQUOR CONTAINER.

No person shall break or open or allow to be opened any container or allow the seal of any container to be broken containing any alcoholic liquor while it is being transported or conveyed by person or by vehicle within the city limits. A violation of this section shall result in a scheduled fine of fifty dollars (\$50.00) per violation.

(Ord. 344, 1997; Iowa Code Secs. 805.8(1), 911.2; Ord. 193, 1980)

ARTICLE 2
BEER AND LIQUOR PERMITS

2.1-3.0201 LICENSE OR PERMIT REQUIRED.

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

(Code of Iowa, 1975, Sec. 123.2)

2.1-3.0202 NATURE OF LICENSE OR PERMIT.

A liquor control license or beer permit shall be a purely personal privilege and be revocable for cause. It shall not constitute property nor be subject to attachment and execution nor be alienable nor assignable and in any case it shall cease upon the death of the permittee or licensee. However, the director may in his discretion allow the executor or administrator of a permittee or licensee to operate the business of the decedent for a reasonable

time not to exceed the expiration date of the permit or license. Every permit or license shall issued in the mail to the applicant and no person holding a permit or license shall allow any other person to use same.

(Code of Iowa, 1975, Sec. 123.38)

2.1-3.0203 BEER PERMITS - CLASSES.

Beer permits shall be classed as follows:

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

(Code of Iowa, 1975,
Sec. 123.124 and 123.131)

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

(Code of Iowa, 1975, Sec. 123.124 and 123.129)

2.1-3.0204 LIQUOR LICENSES - CLASSES.

Liquor control licenses shall be classed as follows:

1. Class "A". A class "A" liquor control license issued to a club shall authorize the holder to purchase alcoholic liquors from the department only, and to sell such liquors and beer, to bona fide members and their guests by the individual drink for consumption on the premises only.

(Code of Iowa, 1975, Sec. 123.30 [3a])

2. Class "B". A class "B" liquor control license issued to a hotel or motel shall authorize the holder to purchase alcoholic liquors from the department only, and to sell such liquors, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may also be sold for consumption off the premises. Each such license shall be effective throughout the premises described in the application.

(Code of Iowa, 1975, Sec. 123.30 [3b])

3. Class "C". A class "C" liquor license issued to a commercial establishment must be issued in the name of the individual or individuals who actually own the entire business and shall authorize the holder or holders to purchase alcoholic liquors from the department only, and to sell such liquors, and beer, to patrons by the individual drink for consumption on the premises only, however, beer may be sold for consumption off this premises.

(Code of Iowa, 1975, Sec. 123.30 [3c])

2.1-3.0205 APPLICATION.

A verified application for the original issuance or the renewal of a liquor control license or a beer permit shall be filed at such time, in such number of copies and in such form as the director shall inscribe, on forms prescribed by him.

(Code of Iowa, 1975, Sec. 123.31)

2.1-3.0206 BOND FILED.

The application shall be accompanied by the required fee as bond and be filed with the council for approval or disapproval. The bond to be submitted shall be on a form prescribed by the director and the following amounts:

(Code of Iowa, 1975, Sec. 123.32)

1. Liquor Control License. With any liquor control license, \$5,000.00, and conditioned upon the payment of all taxes payable to the state under the provisions of this Iowa beer and liquor control act and compliance with all provisions of the act.

(Code of Iowa, 1975, Sec. 123.30 [1])

2. Beer Permit. With class "B" and "C" beer permits, \$500.00, and conditioned upon the faithful observance of the Iowa beer and liquor control act.

(Code of Iowa, 1975,
Sec. 123.128 and 123.129)

2.1-3.0207 CONDITIONS.

No liquor control license or beer permit shall be approved unless:

1. Character of Applicant. The applicant is a person of good moral character as defined by this chapter and

in the case of a club, corporation or partnership, the officers of the club or corporation and the partners of a partnership are of good moral character as defined by this chapter.

(Code of Iowa, 1975, Sec. 123 [1])

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

(Code of Iowa, 1975, Sec. 123.30 [1])

3. Access to Residential or Sleeping Quarters. No interior access to residential or sleeping quarters is permitted or maintained unless permission is granted by the director in the form of a living quarters permit.

(Code of Iowa, 1975, Sec. 123.30 [2])

4. Location of Premises. The premises are located within areas where such businesses are, or hereafter are, permitted by a valid zoning ordinance.

(Code of Iowa, 1975, Sec. 123.128 [1b]; and 123.30 [2])

5. Seating Capacity. The premises are, at the time of the application and continue to be, equipped with sufficient tables and seats to accommodate twenty-five (25) persons at one time.

(Code of Iowa, 1975, Sec. 123.128 [1b] and 123.30 [1])

6. Conform to Applicable Laws. The premises conform to all applicable laws, ordinances, resolutions, and health and fire regulations.

(Code of Iowa, 1975, Sec. 123.30 [2] and 123.128 [2])

7. Use of Booths. No booths are permitted or used unless they are entirely open at one end and unobstructed therein from the rest of the room. The total height of any booth structure shall not exceed forty (40) inches.

(Code of Iowa, 1975, Sec. 123.39)

8. Lighting. The place of business is lighted so that all objects are plainly visible at all times and all parts of such place of business are illuminated to a mini-

mum of two (2) foot-candles as measured by a foot-candle meter at a plane of thirty (30) inches above the floor.

(Code of Iowa, 1975, Sec. 123.39)

9. Obstruction of Doors and Windows. The place of business does not at any time have curtains, screens, paintings or other obstructions on the doors or windows, so as to prevent a full view of the interior from the street.

(Code of Iowa, 1975, Sec. 123.39)

2.1-3.0208 CIVIL LIABILITY.

Every liquor control licensee and class "B" beer permittee shall furnish proof of financial responsibility either by the existence of a liability insurance policy or by posting bond in such amount as determined by the department.

(Code of Iowa, 1975, Sec. 123.92)

(Iowa Departmental Rules, 1973, P. 625, Ch. 8)

2.1-3.0209 PROHIBITED INTEREST.

It will be unlawful for any person or persons to be either directly or indirectly interested in more than one class of beer permit.

(Code of Iowa, 1975, Sec. 123.126)

2.1-3.0210 SEPARATE LOCATIONS - CLASS "B" OR "C".

Every person holding a class "B" or class "C" beer permit having more than one place of business where such beer is sold shall be required to have a separate license for each separate place of business, except as otherwise provided by state law.

(Code Of Iowa, 1975, Sec. 123.140)

2.1-3.0211 INVESTIGATION.

Upon receipt of an original application for a liquor license or beer permit by the clerk, it shall be forwarded to the chief of police who shall conduct an investigation and submit a written report as to the truth of the facts averred in the application and a recommendation to the council as to the approval of the license or permit. It shall be the duty of the health inspector, the building inspector and the fire chief to inspect the premises to determine if they conform to the requirements of the city,

and no license or permit shall be approved until or unless an approving report has been filed with the council by such officers.

(Code of Iowa, 1975, Sec. 123.30 [2])

2.1-3.0212 LICENSE AND PERMIT FEES.

The following fees shall be submitted with the respective application:

1. Class "B" Beer. For a class "B" beer permit the annual fee shall be:

A. Without Sunday sales privileges: \$200.00.

B. With Sunday sales privileges: \$240.00.

(Code of Iowa, 1975, Sec. 123.134 [2])

2. Class "C" Beer. For a class "C" beer permit the annual fee shall be graduated on the basis of the amount of interior floor space which comprises the retail sales area of the premises covered by the permit, as follows:

A. Up to one thousand five hundred square feet: \$75.00.

B. Over one thousand five hundred square feet and up to two thousand square feet: \$100.00.

C. Over two thousand and up to five thousand square feet: \$200.00.

D. Over five thousand square feet: \$300.00.

(Code of Iowa, 1975, Sec. 123.134 [3])

3. Class "A" Liquor. For a class "A" liquor control license the annual fee shall be:

A. Club, without Sunday sales privileges: \$400.00.
With Sunday sales privileges: \$480.00.

B. Club, less than 250 members:
Without Sunday sales privileges: \$400.00.
With Sunday sales privileges: \$480.00.

C. Club, which is a post, branch or chapter of a veterans organization chartered by the Congress of the United States, if such club does not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week, and if the application for a license states that such club does not and will not sell or permit the consumption of alcoholic beverages on the premises more than one day in any week:

Without Sunday sales privileges: \$200.00.

With Sunday sales privileges: \$240.00.

(Code of Iowa, 1975, Sec. 123.36 [2])

4. Class "B" Liquor. For a class "B" liquor control license the annual fee shall be:

A. Without Sunday sales privileges: \$800.00.

B. With Sunday sales privileges: \$960.00.

(Code of Iowa, 1975, Sec. 123.36 [3])

5. Class "C" Liquor. For a class "C" liquor control license the annual fee shall be:

A. Without Sunday sales privileges: \$ 950.00.

B. With Sunday sales privileges: \$1140.00.

(Code of Iowa, 1975, Sec. 123.36 [4])

2.1-3.0213 SEASONAL PERMITS.

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

(Code of Iowa, 1975, Sec. 123.34)

2.1-3.0214 ACTION BY COUNCIL.

Action taken by the council shall be so endorsed on the application and thereafter the application, fee and bond shall be forwarded to the department for such further action as is provided by law.

(Code of Iowa, 1975, Sec. 123.32 [2])

2.1-3.0215 EXPIRATION OF LICENSE OR PERMIT.

All liquor control licenses and beer permits, unless sooner suspended or revoked, shall expire one year from date of issuance. Sixty (60) days notice of such expiration must be given in writing by the director.

(Code of Iowa, 1975, Sec. 123.34)

2.1-3.0216 REFUNDS.

Any such licensee or permittee, or his executor, administrator, or any person duly appointed by the court to take charge of and administer the property or assets of the licensee or permittee for the benefit of his creditors, may voluntarily surrender such license or permit to the department and shall notify the city, and the department and the city, or the city by itself in the case of a retail beer permit, shall refund to the person so surrendering the license or permit a proportionate amount of the fee paid for such license or permit as follows: If surrendered during the first three (3) months of the period for which said licensee or permit was issued the refund shall be three-fourths of the amount of the fee; if surrendered more than three (3) months but not more than six (6) months after issuance the refund shall be one-half of the amount of the fee; if surrendered more than six (6) months but not more than nine (9) months after issuance the refund shall be one-fourth of the amount of the fee. No refund shall be made, however, for a liquor control license or beer permit surrendered for more than nine (9) months after issuance. No refund shall be made to any licensee or permittee, upon the surrender of his license or permit, if there is at the time of said surrender a complaint filed with the department or the city, charging him with a violation of this chapter or provisions of the Iowa beer and liquor control act. If upon hearing on any such complaint the license or permit is not revoked or suspended, then the licensee or permittee shall be eligible, upon surrender of his license or permit, to receive a refund as herein provided. But if his license or permit is revoked or suspended upon such hearing he shall not be eligible for the refund of any portion of his license or permit fee. No refund shall be made for seasonal licenses or permits.

(Code of Iowa, 1975, Sec. 123.38 Iowa Departmental Rules, 1973, P. 616, 2.12 [123])

2.1-3.0217 TRANSFERS.

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

(Iowa Departmental Rules, 1973, P. 616, 2.14 [123])
(Code of Iowa, 1975, Sec. 123.38)

2.1-3.0218 SIMPLIFIED APPLICATION FOR RENEWAL.

Upon receipt of an application for the renewal of a liquor license or beer permit, it shall be forwarded to the chief of police only, who shall conduct an investigation and shall submit a written report as to the truth of the facts contained in the application and a recommendation to the council as to the approval of the license or permit.

(Code of Iowa, 1975, Sec. 123.35)

2.1-3.0219 PROHIBITED SALES AND ACTS.

No person or club holding a liquor license or beer permit nor his agents or employees shall do any of the following:

1. Intoxicated Persons. Sell, dispense or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor or beer.

(Code of Iowa, 1975, Sec. 123.49 [1])

2. Hours of Operation. Sell or dispense any alcoholic liquor or beer on the premises covered by the license or permit, or permit the consumption thereon, between the hours of two A.M. and six A.M. on any weekday and between the hours of two A.M. on Sunday and six A.M. on the following Monday.

(Code of Iowa, 1975, Sec. 123.49 [2b])

3. Credit Sales. Sell alcoholic liquor or beer to any person on credit, except with bona fide credit card.

This provision shall not apply to sales by a club to its members nor to sales by a hotel or motel to bona fide registered guests.

(Code of Iowa, 1975, Sec. 123.49 [2c])

4. Employment of Minors. Employ any person under legal age in the sale or serving of alcoholic liquor or beer for consumption on the premises where sold.

(Code of Iowa, 1975, Sec. 123.49 [2f])

5. Selling of Alcoholic Beverage to Minors Sell, give or otherwise supply any alcoholic beverage or beer to any person knowing or having reasonable cause to believe him to be under legal age, or permit any person knowing or having reasonable cause to believe him to be under legal age, to consume any alcoholic beverage or beer.

(Code of Iowa, 1975, Sec. 123.49 [2h])

6. Mixing of Alcoholic Beverage. In the case of a retail beer permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer or any other beverage in or about his place of business.

(Code of Iowa, 1975, Sec. 123.49 [2i])

7. Soliciting and Disorderly Conduct. Knowingly permit any solicitors for unusual purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, 1975, Sec. 123.49 [2a])

8. Beer Brand Signs Prohibited. Permit any signs or other matter advertising any brand of beer to be erected or placed upon the outside of any premises occupied by a licensee or permittee authorized to sell beer at retail.

(Code of Iowa, 1975, Sec. 123.51 [3])

9. Minors Prohibited. Permit or allow any person under eighteen (18) years of age to remain upon licensed premises.

10. Doors to Remain Closed. Failure to keep all doors and windows closed during hour of operation when there is excessive noise or music. Excessive noise is defined as many sound which annoys or disturbs a reasonable

person of normal sensitivities. Any complaint by a resident of Buffalo or a City Official shall be directed to the Buffalo Police Department for investigation and enforcement of applicable noise and loudspeaker ordinances.

(Ord. 421 2008, Ord.

419, 2007)

2.1-3.0220 OPTIONAL SUSPENSION OR REVOCATION.

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

1. Misrepresentation. Misrepresentation of any material fact in the application for such license or permit.
(Code of Iowa, 1975, Sec. 123.39 [1])
2. Violations. Violations of any of the provisions of the Iowa beer and liquor control act.
(Code of Iowa, 1975, Sec. 123.39 [2])
3. Change in Ownership. Any change in the ownership or interest in the business operated under a class "A", class "B", or class "C" liquor control license, or any beer permit which change was not previously reported to and approved by the city and the department.
(Code of Iowa, 1975, Sec. 123.39 [3])
4. Original Disqualifications. Any event which would have resulted in disqualification from receiving such license or permit when originally issued.
(Code of Iowa, 1975, Sec. 123.39 [4])
5. Sale or Transfer. Any sale, hypothecation or transfer of such license or permit.
(Code of Iowa, 1975, Sec. 123.39 [5])
6. Payment of Taxes. The failure or refusal on the part of any licensee or permittee to render any report or remit any taxes to the department under the state law.
(Code of Iowa, 1975, Sec. 123.39 [6])

7. Commission Of Prohibited Sale Or Act. The conviction of any liquor control licensee or beer permittee for a violation of any of the provisions of Section 2.1-3.0219 shall, subject to Section 2.1-3.0221, be grounds for the suspension or revocation of the license or permit by the department or the city.

(Code of Iowa, 1975, Sec. 123.50 [2])

2.1-3.0221 MANDATORY SUSPENSION OR REVOCATION.

A license or permit shall be suspended or revoked by the city council in accordance with the following:

1. Sale to Minors or "Spiking". If any licensee, beer permittee, or employee of such licensee or permittee shall be convicted of a violation of Section 2.1-3.0219, subsection 5, or a retail beer permittee shall be convicted of a violation of subsection 6 of said section, the city shall, in addition to the other penalties fixed for such violations by this article, assess a penalty as follows:

A. Upon a first conviction, the violator's liquor control license or beer permit shall be suspended for a period of fourteen (14) days.

(Code of Iowa, 1975, Sec. 123.50 [3a])

B. Upon a second conviction within a period of two (2) years, the violator's liquor control license or beer permit shall be suspended for a period of thirty (30) days.

(Code of Iowa, 1975, Sec. 123.50 [3b])

C. Upon a third conviction within a period of five (5) years, the violator's liquor control license or beer permit shall be suspended for a period of sixty (60) days.

(Code of Iowa, 1975, Sec. 123.50 [3c])

D. Upon a fourth conviction within a period of five (5) years, the violator's liquor control license or beer permit shall be revoked.

(Code of Iowa, 1975, Sec. 123.50 [3d])

2. Gambling, Solicitation, Disorderly Conduct, Use of Containers. If any liquor control licensee is convicted

of any violation of Code of Iowa, 1975, Sec. 123.49 (2, a, d or e), or any beer permittee is convicted of a violation of subsection (2), paragraph "A" of said section, the liquor control license or beer permit shall be revoked and shall immediately be surrendered by the holder, and the bond of the license or permit holder shall be forfeited to the department.

(Code of Iowa, 1975, Sec. 123.50 [2])

2.1-3.0222 HEARING ON SUSPENSION OR REVOCATION.

The council shall conduct a hearing on each suspension or revocation in the following manner:

(Code of Iowa, 1975, Sec. 322.13 [5])

1. Notice. The permit holder, and the surety on his bond, shall be served with written notice containing a copy of the complaint against him, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.

2. Hearing. The council shall conduct a hearing, at which both the permit holder and complainants shall be present, the purpose of which is to determine the truth of the facts alleged in the complaint. Should the permit holder or his authorized representative fail to appear without good cause, the council may proceed to a determination of the complaint.

3. Rights of Permit Holder. The permit holder shall have the right to be represented by counsel, to testify and present witnesses in his own behalf, and to cross examine adverse witnesses.

4. Evidence. The council shall admit only reliable and substantial evidence into the revocation or suspension proceeding, and shall give all admitted evidence its natural probative value.

5. Criminal Charges. In the event that criminal charges have been brought against the permit holder on the same facts and circumstances as are the basis for the revocation or suspension complaint, the council shall await a judgment in the criminal action before conducting the revocation or temporary suspension hearing required by

this section. Neither a conviction nor an acquittal in the criminal action shall be conclusive for purposes of the revocation or suspension proceeding held under this section.

6. Record and Determination. The council shall make and record findings of fact and conclusions of law, and shall revoke or suspend a permit under this section only when, upon review of the entire record, it finds clear and convincing evidence of a substantial violation of this chapter or state law.

2.1-3.0223 DEPARTMENT NOTIFIED.

When the city council revokes or suspends a liquor license or beer permit, the Iowa Beer and Liquor Control Department shall be given written notice thereof stating the reasons for the revocation or suspension and the length of same.

(Iowa Departmental Rules, 1973, P. 616, 2.8)

2.1-3.0224 APPEAL TO STATE AND COURT.

The right of appeal to the hearing board shall be afforded a liquor control licensee or beer permittee whose license or permit has been suspended or revoked. Any applicant who feels aggrieved by a decision of the director or city disapproving, suspending or revoking issuance of a liquor control license or beer permit may, provided he has exercised his right of appeal to the hearing board as provided by state law, appeal from said decision within ten (10) days to the district court of the county wherein the premises covered by the application are situated. The city may appeal a decision of the hearing board within ten (10) days to the district court of the county wherein the premises covered by the application are situated.

(Code of Iowa, 1975, Sec. 123.32 [4 and 5])

2.1-3.0225 EFFECT OF REVOCATION.

Any liquor control licensee or beer permittee whose license or permit is revoked under the Iowa beer and liquor control act shall not thereafter be permitted to hold a liquor control license or beer permit in the state of Iowa for a period of two (2) years from the date of such revocation. The spouse and business associates holding ten (10) percent or more of the capital stock or ownership in-

terest in the business of a person whose license or permit has been revoked shall not be issued a liquor control license or beer permit, and no liquor control license or beer permit shall be issued which covers any business in which such person has a financial interest for a period of two (2) years from the date of such revocation. In the event a license or permit is revoked the premises which have been covered by such license or permit shall not be relicensed for one year.

(Code of Iowa, 1975, Sec. 123.40)

2.1-3.0226 OUTSIDE SERVICE AREAS

Application for outdoor areas must be made to the City Council. Approval will be on an individual basis by resolution. (Ord. 423, 2008)

CHAPTER 4 - POLICE CHIEF

2.1-4.01 POLICE CHIEF PROVIDED.

The position of police chief of the city is established to provide for the preservation of peace and enforcement of law and ordinances within the corporate limits of the city.

(Ord. 280 (part), 1991)

2.1-4.02 QUALIFICATIONS.

In no case shall any person be recruited, selected, or appointed as police chief or as a police officer unless such person:

(Code of Iowa, 1975, Sec. 80B.11)

(Iowa Departmental Rules, 1973, P. 609, Sec. 1-1 and 1.2)

1. Resident Citizen. Is a citizen of the United States and a resident of Iowa and lives within twenty-five (25) miles of City Hall upon being employed.

2. Age. Must be at least twenty-one (21) years of age.

3. Driver's License. Must have a current active Iowa driver's license.

4. Language. Must be able to read, write and spell the English language and be able to type.

5. Alcohol and Drugs. This will be subject to Iowa State Code.

6. Character. Must be of good moral character as determined by a thorough investigation including a fingerprint search conducted of local, state and national fingerprint files and has not been convicted of a felony or a crime involving moral turpitude.

7. Conscientious Objector. Must not by reason of conscience or belief be opposed to the use of force, when appropriate or necessary to fulfill his duties.

(Ord. 280 (part), 1991)

2.1-4.03 TRAINING.

The police chief must be an Iowa Law Enforcement Academy graduate and have at least five (5) years' experience as a police officer.

(Ord. 280 (part), 1991)

2.1-4.04 OATH.

The police chief and every police officer, before entering upon the duties of his office, shall qualify for office by taking the oath prescribed by Section 1-1.0201 of this code.

(Ord. 280 (part), 1991)

2.1-4.05 COMPENSATION.

The police chief and any police officers shall be designated by rank and receive such compensation as shall be determined by resolution of the council. The police chief shall be allowed to belong to the police union. According to the union contract at any current time, he shall be allowed the same benefits as the other police officers, such as insurance, holidays, vacation, sick leave, bereavement leave, etc. Overtime procedure shall be the same as listed in the union contract.

(Ord. 324, 1996: Ord. 280 (part), 1991)

2.1-4.06 GENERAL JOB DESCRIPTIONS FOR POLICE OFFICER

The City Council will adopt a job description manual by resolution. The manual will include job descriptions specific to the duty of police officer.

(Ord. 445,2011)

2.1-4.07 POLICE CHIEF DUTIES.

The police chief shall have the following powers and duties subject to the approval of the council.

1. General. He shall perform all duties required of the police chief by law or ordinance.

2. Enforce the Laws. He shall enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.

3. Writs. He shall execute and return all writs and other processes directed to him.

4. Accident Reports. He shall report all motor vehicle accidents investigated by the department to the State Department of Public Safety as required by law.

5. Prisoners. He shall be responsible for the custody of prisoners, including conveyance to detention facilities as may be required by state law.

6. Assist Officials. He shall, when requested, provide aid to other city officers, boards and commissions in the execution of their official duties. He shall be responsible for presenting a yearly fiscal budget to the council for approval or changes.

7. Investigations. He shall 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. He shall keep a record of all arrests made in the city by members of the department 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. He shall compile and submit to the mayor and council a monthly report of the status and ac-

tivities of the department as well as such other reports as may be requested by the mayor or council.

10. Command. He shall be in command of all officers appointed or hired for police work and shall schedule the work hours and be responsible for the care, maintenance and use of all vehicles, equipment and materials utilized for police work. He shall be responsible for the police building, notifying the public works department when repairs may be needed. He shall be responsible for an adequate supply of fuel at all times at the fuel tanks.

11. Uniform. He shall wear upon his outer garment and in plain view a metal badge engraved with the name of his office, his officer's identification number, and such uniform as may be specified by the council.

12. Applicants for Officers. He shall review all applications and make recommendations to council of most qualified applicants for required further testing.

13. The police chief and all officers, upon punching in on the time clock at shift start, shall be in full police uniform.

(Ord. 325, 1996; Ord. 280 (part), 1991)

CHAPTER 5 - BICYCLES

ARTICLE 1 BICYCLE REGULATIONS

2.1-5.0101 SCOPE OF REGULATIONS.

These regulations, applicable to bicycles, shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

(Code of Iowa, 1975, Sec. 321.236 [10])

2.1-5.0102 MOVEMENT REGULATIONS.

1. 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 the driver of a vehicle by the

laws of this state declaring rules of the road applicable to vehicles or by the traffic code of this city applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle he shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, 1975, Sec. 321.234)

2. Riding On Bicycles. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Code of Iowa, 1975, Sec. 321.236 [10])

3. Riding Abreast. 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.

(Code of Iowa, 1975, Sec. 321.236 [10])

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

(Code of Iowa, 1975, Sec. 321.236 [10])

5. Speed. No person shall operate a bicycle at a speed greater than is reasonable as prudent under the conditions then existing.

(Code of Iowa 1975, Sec. 321.236 [10])

6. 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 said sidewalk or sidewalk area, and upon entering the roadway shall yield the right of way to all vehicles approaching on said roadways.

(Code of Iowa, 1975, Sec. 321.236 [10])

7. Carrying Articles. No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

(Code of Iowa, 1975, Sec. 321.236 [10])

8. Riding on Sidewalks.

A. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

(Code of Iowa, 1975, Sec. 321.236 [10])

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

(Code of Iowa, 1975, Sec. 321.236 [10])

2.1-5.0103 PARKING.

No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

(Code of Iowa, 1975, Sec. 321.236 [10])

2.1-5.0104 EQUIPMENT REQUIREMENTS.

1. Nighttime Use. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector.

(Code of Iowa, 1975, Sec. 321.236 [10])

2. Signal Device Required. No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred (100) feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle.

(Code of Iowa, 1975, Sec. 321.236 [10])

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

(Code of Iowa, 1975, Sec. 321.236 [10])

ARTICLE 2 BICYCLE LICENSING

2.1-5.0201 LICENSE.

1. License Required. No person who resides within this city shall ride or propel a bicycle on any street or upon any public path set aside for the exclusive use of bicycles Unless such bicycle has been licensed and a license plate is attached thereto as provided herein.

(Code of Iowa, 1975, Sec. 321.236 [10])

2. License Application. Application for a bicycle license and license plate shall be made upon a form provided by the city and shall be made to the chief of police. A license fee of one (1) dollar shall be paid to the city before each license is granted.

(Code of Iowa, 1975, Sec. 321.236 [10])

3. Issuance of License. The chief of police upon receiving proper application therefor is authorized to issue a bicycle license which shall be effective immediately.

(Code of Iowa, 1975, Sec. 372.13 [4])

2.1-5.0202 LICENSE PLATES.

1. Issue Plate. The chief of police upon issuing a bicycle license shall also issue a license plate bearing the license number assigned to the bicycle and the name of the city.

(Code of Iowa, 1975, Sec. 372.13 [4])

2. Attach Plates to Bicycle. The chief of police shall issue such license plate to be firmly attached to the bicycle for which issued in such position as to be plainly visible from the rear.

(Code of Iowa, 1975, Sec. 321.236 [10])

3. Removal of License. No person shall remove a license plate from a bicycle during the period for which issued except upon a transfer of ownership or in the event the bicycle is dismantled and no longer operated upon any street in this city.

(Code of Iowa, 1975, Sec. 321.236 [10])

2.1-5.0203 MAINTENANCE OF LICENSE RECORDS.

The chief of police shall keep a record of the number of each such license, the date issued, the name and address of the person to whom issued, and the number on the frame of the bicycle for which issued, and a record of all bicycle license fees collected by him.

(Code of Iowa, 1975, Sec. 372.13 [4])

CHAPTER 6 - SNOWMOBILES

2.1-6.01 SNOWMOBILE DEFINED.

For use in this chapter the term "snowmobile" shall mean any self-propelled vehicle weighing less than one thousand pounds which utilizes wheels with low pressure tires and is designed to operate on land or ice or is equipped with sled-type runners or skis, endless belt-type tread, or any combination thereof, and is designed for travel upon snow, land or ice, except any vehicle registered as a motor vehicle under state law.

(Code of Iowa, 1975, Sec. 321 G.1 [2])

2.1-6.02 PLACE OF OPERATION.

The operators of snowmobiles shall observe the following limitations as to where snowmobiles may be operated:

1. Unplowed Streets. Snowmobiles may be operated upon streets which have not been plowed during the snow season.

(Code of Iowa, 1975, Sec. 321 G.9 [4a])

2. Other Streets. Snowmobiles may be operated on any street within the city except that the council may, by resolution, prohibit the operation of snowmobiles within the right of way of the public roads or streets when in their opinion the public safety and welfare so require.

(Code of Iowa, 1975, Sec. 321 G.9 [4a])

3. Parks and Other Public Land. Snowmobiles shall not be operated in any city park, playground, school ground, golf course or upon any other publicly owned property without express provision or permission to do so by the proper public authority. The parks and recreation director shall have the authority to designate park areas that he shall deem available for the use of snowmobiles.

4. Private Property. No snowmobile shall be operated upon private property without the express consent of the owner thereof.

(Code of Iowa, 1975, Ch. 729)

5. Sidewalk or Parking. No snowmobiles shall be operated upon the public sidewalk, nor shall they be operated upon that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking", except for purposes of crossing the same to a public street upon which operation is authorized by the chapter.

2.1-6.03 MANNER OF OPERATION.

No person shall operate a snowmobile in the city except as hereafter provided.

1. Registration. No snowmobile shall be operated in the city unless registered pursuant to state law and unless the identifying number set forth in the registration is displayed on each side of the snowmobile.

(Code of Iowa, 1975, Sec. 321 G.3 and 321 G.5)

2. Equipment. All snowmobiles shall be equipped with muffling devices, lights and other equipment required by state law or regulation.

(Code of Iowa, 1975, Sec. 321 G.2, 321 G.11, and 321 G.12)

3. Traffic Code. Snowmobile operators shall observe all state and local traffic-control regulations and devices.

(Code of Iowa, 1975, Sec. 321.256)

4. Speed. Snowmobiles shall not be operated on streets at a speed in excess of that posted nor at any time at a rate of speed greater than reasonable and proper under all existing circumstances.

(Code of Iowa, 1975, Sec. 321 G.13 [1])

5. Careless Operation. No person shall operate a snowmobile in a careless, reckless, or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto.

(Code of Iowa, 1975, Sec. 321 G.13 [2])

6. Intoxicated No person shall operate a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs.

(Code of Iowa, 1975, Sec. 321 G.13 [3])

7. Lights. No person shall operate a snowmobile without a lighted headlight and taillight when required for safety.

(Code of Iowa, 1975, Sec. 321 G.13 [4])

8. Unattended. No operator or owner shall leave or allow a snowmobile to be or remain unattended on public property while the motor is running or with keys in the ignition switch.

9. Flag No snowmobile shall be operated upon a street without displaying a flag with an area of not less than six by nine inches of fluorescent orange color on a staff holder to put such flag at least 5 1/2 feet above the surface of the street.

(Code of Iowa, 1975, Sec. 321 G.13 [9])

10. A snowmobile may make a direct crossing of a prohibited street or highway provided:

(Code of Iowa, 1975, Sec. 321 G.9 [2])

A. The crossing is made at an angle of approximately ninety degrees to the direction of the street or highway and at a place where no obstruction prevents a quick and safe crossing; and

B. The snowmobile is brought to a complete stop before crossing the shoulder or main traveling way of the street or highway;

C. The driver yields the right of way to all oncoming traffic which constitutes an immediate hazard.

11. Minors. No person under sixteen (16) years of age shall operate a snowmobile on or across a public street unless he has in his possession a valid safety certificate issued to him by the state conservation commission nor shall the owner or operator of any snowmobile having an engine rating of 300 cubic centimeters or more permit any person under twelve (12) years of age to operate such a snowmobile at any time except when accompanied by a responsible person of at least eighteen (18) years of age.

(Code of Iowa, 1975, Sec. 321 G.9 [6] and 321 G.20)

12. Hours of Operation Limited. No snowmobile shall be operated in the city between the hours of 11:00 P.M. and 7:00 A.M. except for emergency situations or for loading and unloading from a transport trailer.

(Code of Iowa, 1975, Sec. 321 G.2)

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

(Code of Iowa, 1975, Sec. 321 G.2)

14. Single File. Snowmobiles shall be driven in a single file manner in the proper lane of traffic as close to the curb or edge of roadway as is possible under existing conditions.

15. Dead Man Throttle. No snowmobile shall be operated within the city unless equipped with a "dead man" throttle which when pressure is removed from the accelerator or throttle causes the engine to be disengaged from the drive mechanism.

16. Towing. No item shall be towed by a snowmobile unless coupled to said snowmobile by a rigid tow bar.

CHAPTER 7 - SKATEBOARDS

2.1-7.01 USE OF SKATEBOARDS IN CITY PARKS.

It shall be unlawful to ride, operate, or use skateboards, bicycles, or roller blades on all park sidewalks around buildings or shelters when the general public is attending park functions such as sporting events, municipal celebrations and picnics. This chapter shall also include all motorized scooters as defined under the regulations of the Iowa Department of Transportation.

(Ord. 385, 2004; Ord. 374 (part), 2001)

2.1-7.02 VIOLATION AND PENALTY.

Anyone violating the provisions of this chapter shall, upon conviction thereof, be punishable by a fine not to exceed twenty-five dollars (\$25.00).

(Ord. 374 (part), 2001)

DIVISION 2 - FIRE SAFETY

CHAPTER 1 - FIRE DEPARTMENT

2.2-1.01 ESTABLISHMENT AND PURPOSE.

The Buffalo Volunteer Fire Department is 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.

2.2-1.02 ORGANIZATION.

The department shall consist of the fire chief, twenty-five (25) firemen, and no more than twenty-five (25) Second Alarmers who must have been active firemen with the Buffalo Volunteer Fire Department.

2.2-1.03 QUALIFICATIONS.

In no case shall any person be recruited, selected, or appointed as a member of the department unless such person be at least eighteen (18) years of age.

2.2-1.04 FIRE CHIEF: DUTIES.

The fire chief shall have the following powers and duties:

(Code of Iowa, 1975, Sec. 372.14 [4])

1. General. He shall perform all duties required of the fire chief by law or ordinance.

2. Enforce Laws. He 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 exit in case of fire from halls, theatres, churches, hospitals, asylums, lodging houses, schools, factories and all other buildings in which the public congregates for any purpose.

E. The installation and maintenance of private fire alarm systems and fire extinguishing equipment.

3. Command. He 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.

4. Property. He shall recommend to the city council the disposition of fire apparatus, tools, equipment and other property used by or belonging to the fire department. The city council shall have full control over the disposition of all fire apparatus, tools, equipment and other property used by or belonging to the fire department.

(Ord. 393, 2004)

5. Investigations. He shall investigate the cause, origin and circumstances of each fire by which property has been destroyed or damaged or which results in bodily

injury to any person. Whenever he finds that bodily injury or property damage of fifty dollars (\$50.00) or more was caused by such fire, or if he suspects arson, he shall report his findings to the state fire marshal in writing within one week after the fire. If he believes that a fire was started by design or if a death occurs as the result of a fire, he shall notify the state fire marshal immediately.

(Code of Iowa, 1975, Sec. 100.2 and 100.3)

6. Right of Entry. He shall have the right of entry into any building or premises within his jurisdiction at a reasonable time and after reasonable notice to the occupant or owner. He shall there conduct such investigation or inspection that he considers necessary in light of state law, regulation or ordinance.

(Code of Iowa, 1975, Sec. 100.12)

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

(Code of Iowa, 1975, Sec. 100.13)

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

(Code of Iowa, 1975, Sec. 100.4)

9. Records. He 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.

10. Reports. He shall compile and submit to the mayor and council an annual report of the status and activities of the department as well as such other reports as may be requested by the mayor or council.

2.2-1.05 CONSTITUTION.

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

2.2-1.06 ACCIDENTAL INJURY INSURANCE.

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

(Code of Iowa, 1975, Sec. 85.2, 85.61 and Sec. 410.18)

2.2-1.07 LIABILITY INSURANCE.

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

(Code of Iowa, 1975, Sec. 613A.2 and 517A.1)

2.2-1.08 FIRES OUTSIDE THE CITY.

The department shall answer calls to fires and other emergencies outside the city limits if the fire chief or assistant fire chief determines that such emergency exists and that such action will not endanger persons and property within the city limits and under the following conditions:

(Code of Iowa, 1975, Sec. 364.4 [2 and 3])

1. Jurisdiction Extended. When the fire fighting equipment or firemen of the city are on calls for fire fighting or other emergency assistance outside the corporate limits of the city, such equipment and personnel should be considered within their jurisdiction and the city shall have the same rights and powers as when operating within the corporate limits.

2. Subscription Fee. The amount to be charged subscribers for such service as may be rendered by the Buf-

falo Volunteer Fire Department shall be fifty dollars (\$50.00) for a period of ten (10) years from the date of receipt of such payment by the department.

3. Service Charge: Non-Subscribers. There shall be a charge for fire fighting or other emergency service outside the corporate limits to a non-subscriber in the amount of one hundred dollars (\$100.00) plus twenty-five (\$25.00) per hour or any fraction thereof spent in rendering or attempting to render assistance in response to any request for such assistance.

2.2-1.09 RULES AND REGULATIONS.

Any rules or regulations prescribed by resolution of the council shall be obeyed by the department or any of its members.

CHAPTER 2 - FIRE PREVENTION CODE
(RESERVED FOR FUTURE USE)

DIVISION 3 - BUILDING AND PROPERTY REGULATION

CHAPTER 1 - UNIFORM BUILDING CODE

2.3-1.01 OFFICIAL CODE.

The International Building Code shall prevail as the official code governing all aspects of the building field in the city.

(Ord. 407 2006; Ord. 360, 1998; Ord. 235, Sec. 1, 1985)

2.3-1.02 International Building Code Adopted

1. The city adopts the 2009 Edition of the International Building Code in full except for additions or deletions adopted elsewhere in this code. As new editions become published they shall automatically become effective and prevail as the official building code of the City. The International Building Code as published by the International Conference of Building Officials is hereby adopted by reference.

2. The Abatement of Dangerous Buildings, the Uniform Fire Code, the International Mechanical Code, In-

ternational Residential Code and the International Electrical Code are adopted as supplements to the International Building Code. (Ord. 431,2010)

3.A. The Uniform Fire Code in its entirety, except appendices, shall prevail as the official code governing all aspects of the building field in the city of Buffalo, Iowa.

B. The city hereby adopts the Uniform Fire Code 1994 Addition as prevailing at this time. As new editions become published they shall automatically become effective and prevail as the Official Fire Code of the city of Buffalo, Iowa. To the extent this section conflicts with any section of the Iowa Code, the latter section will prevail.

(Ord. 407 2006; Ord. 360, 1998; Ord. 348, 1997; Ord 264, Secs. 1, 2, 1990; Ord. 235, Sec. 2, 1985; Ord 202, 1981)

2.3-1.03 FEE SCHEDULE.

The schedule in Table 2.3-1.03 A of permit fees is adopted in lieu of those provided in the Uniform Building Code.

Permit Fees

To wreck a building \$15.00

TABLE 2.3-1.03A PERMIT FEE SCHEDULE

\$1.00 To \$500.00	\$ 15.00
501.00 To 600.00	17.00
601.00 To 700.00	19.00
701.00 To 800.00	21.00
801.00 To 900.00	23.00
901.00 To 1,000.00	25.00
1,001.00 To 1,100.00	27.00
1,101.00 To 1,200.00	29.00
1,201.00 To 1,300.00	31.00
1,301.00 To 1,400.00	33.00
1,401.00 To 1,500.00	35.00
1,501.00 To 1,600.00	37.00
1,601.00 To 1,700.00	39.00

1,701.00 To 1,800.00	41.00
1,801.00 To 1,900.00	43.00
1,901.00 To 2,000.00	45.00
2,001.00 To 3,000.00	54.00
3,001.00 To 4,000.00	63.00
4,001.00 To 5,000.00	72.00
5,001.00 To 6,000.00	81.00
6,001.00 To 7,000.00	90.00
7,001.00 To 8,000.00	99.00
8,001.00 To 9,000.00	108.00
9,001.00 To 10,000.00	117.00
10,001.00 To 11,000.00	126.00
11,001.00 To 12,000.00	135.00
12,001.00 To 13,000.00	144.00
13,001.00 To 14,000.00	153.00
14,001.00 To 15,000.00	162.00
15,001.00 To 16,000.00	171.00
16,001.00 To 17,000.00	180.00
17,001.00 To 18,000.00	189.00
18,001.00 To 19,000.00	198.00
19,001.00 To 20,000.00	207.00
20,001.00 To 21,000.00	216.00
21,001.00 To 22,000.00	225.00
22,001.00 To 23,000.00	234.00
23,001.00 To 24,000.00	243.00
24,001.00 To 25,000.00	252.00
25,001.00 To 26,000.00	258.50
26,001.00 To 27,000.00	265.00
27,001.00 To 28,000.00	271.50
28,001.00 To 29,000.00	278.00
29,001.00 To 30,000.00	284.50
30,001.00 To 31,000.00	291.00
31,001.00 To 32,000.00	297.50
32,001.00 To 33,000.00	304.00
33,001.00 To 34,000.00	310.50
34,001.00 To 35,000.00	317.00
35,001.00 To 36,000.00	323.50
36,001.00 To 37,000.00	330.00
37,001.00 To 38,000.00	336.50
38,001.00 To 39,000.00	343.00
39,001.00 To 40,000.00	349.50
40,001.00 To 41,000.00	356.00
41,001.00 To 42,000.00	362.50

42,001.00 To 43,000.00	369.00
43,001.00 To 44,000.00	375.50
44,001.00 To 45,000.00	382.00
45,001.00 To 46,000.00	388.50
46,001.00 To 47,000.00	395.00
47,001.00 To 48,000.00	401.50
48,001.00 To 49,000.00	408.00
49,001.00 To 50,000.00	414.50
50,001.00 To 51,000.00	419.00
51,001.00 To 52,000.00	423.50
52,001.00 To 53,000.00	428.00
53,001.00 To 54,000.00	432.50
54,001.00 To 55,000.00	437.00
55,001.00 To 56,000.00	441.50
56,001.00 To 57,000.00	446.00
57,001.00 To 58,000.00	450.50
58,001.00 To 59,000.00	455.00
59,001.00 To 60,000.00	459.50
60,001.00 To 61,000.00	464.00
61,001.00 To 62,000.00	468.50
62,001.00 To 63,000.00	473.00
63,001.00 To 64,000.00	477.50
64,001.00 To 65,000.00	482.00
65,001.00 To 66,000.00	486.50
66,001.00 To 67,000.00	491.00
67,001.00 To 68,000.00	495.50
68,001.00 To 69,000.00	500.00
69,001.00 To 70,000.00	504.50
70,001.00 To 71,000.00	509.00
71,001.00 To 72,000.00	513.50
72,001.00 To 73,000.00	518.00
73,001.00 To 74,000.00	522.50
74,001.00 To 75,000.00	527.00
75,001.00 To 76,000.00	531.50
76,001.00 To 77,000.00	536.00
77,001.00 To 78,000.00	540.50
78,001.00 To 79,000.00	545.00
79,001.00 To 80,000.00	549.50
80,001.00 To 81,000.00	554.00
81,001.00 To 82,000.00	558.50
82,001.00 To 83,000.00	563.00
83,001.00 To 84,000.00	567.50
84,001.00 To 85,000.00	572.00

85,001.00 To 86,000.00	576.50
86,001.00 To 87,000.00	581.00
87,001.00 To 88,000.00	585.50
88,001.00 To 89,000.00	590.00
89,001.00 To 90,000.00	594.50
90,001.00 To 91,000.00	599.00
91,001.00 To 92,000.00	603.50
92,001.00 To 93,000.00	608.00
93,001.00 To 94,000.00	612.50
94,001.00 To 95,000.00	617.00
95,001.00 To 96,000.00	621.50
96,001.00 To 97,000.00	626.00
97,001.00 To 98,000.00	630.50
98,001.00 To 99,000.00	635.00
99,001.00 To 100,000.00	639.50
100,001.00 To 500,000.00	\$640.00 For the first \$100,000.00 Plus \$3.50 for each additional \$1000.00 or fraction thereof to and including \$500,000.00
500,001.00 To 1,000,000.00	\$2,039.50 For the first \$500,000.00 plus \$3.00 for each additional \$1,000.00 or fraction thereof to and including \$1,000,000.00
1,000,001.00 and Up	\$3,539.50 For the first \$1,000,000.00 plus \$2.00 for each additional \$1,000.00 or fraction thereof

(Ord. 360, 1998: Ord. 283, 1991)

2.3-1.04 BUILDING VALUATION DATA.

For the purpose of determining the valuations of buildings and improvements thereto for building permit fees, the following values per square foot shall be multiplied by the total square foot of the building or improvements thereto for residential buildings.

1. Houses:

A. Wood frame construction	\$55.00/sq. ft.
B. Brick veneer construction	\$65.00/sq. ft.

C. If basement is finished add \$10.00 per additional sq. ft.

D. If second floor add \$25.00 per additional sq. ft.

2. Additions:

A. Same value per square foot as for house in Sub Section 1

3. Breezeway:

A. Unenclosed	\$ 6.50/sq.ft.
B. Enclosed	\$25.00/sq. ft.

4. Porch:

A. Unenclosed	\$20.00/sq. ft.
B. Enclosed	\$45.00/sq. ft.

5. Balcony: \$20.00/sq. ft.

6. Pole buildings: \$15.00/sq. ft. finished
\$30.00/sq. ft.

7. GARAGES: (Fee separate from house valuation)

A. Frame construction	\$20.00/sq. ft.
B. Brick veneer	\$25.00/sq. ft.
C. Basement garage	\$20.00/sq. ft.
D. Car ports	\$15.00/sq. ft.

(Ord. 360, 1998: Ord. 205, Sec. 1, 1981)

2.3-1.05 BUILDING INSPECTION FEE.

The fee paid for the building permit includes building inspection fees except for the following:

1. Inspections outside of normal business hours at which time thirty dollars (\$30.00) per hour will be charged with a minimum charge of two (2) hours

2. Reinspection fee shall be thirty dollars (\$30.00) per hour with a minimum charge of one (1) hour

3. Inspections for which no fee is specifically indicated shall be thirty dollars (\$30.00) per hour with a minimum charge of one half hour

4. Additional plan review required by changes, additions or revisions to approved plans shall be thirty dollars (\$30.00) per hour with a minimum charge of one half hour.

(Ord. 360, 1998: Ord. 205, Sec. 2, 1981)

2.3-1.06 GARAGES AND STORAGE BUILDING.

The following regulations shall apply to garages and storage buildings:

1. Maximum size shall not exceed twenty-six (26) feet in width and thirty (30) feet in length without frost footings. (Delete Section 1806.3 of the Uniform Building Code 1997 Edition Exceptions: Requirement of four hundred (400) square feet and insert seven hundred eighty (780) square feet)

A. Minimum Requirements for Concrete and Reinforcement, for Slab on Grade.

1. Of slab on grade for private garages, concrete shall have a minimum of three thousand five hundred (3,500) psi (pounds per square inches) concrete to be cast in place.

2. There shall be a twelve (12) inch by twelve (12) inch footing around the entire perimeter of the floating slab. It shall also have three (3) No. 4 rerod installed evenly in the twelve (12) inch by twelve (12) inch footing and be three thousand five hundred (3,500) psi concrete and cast in place.

3. Slab on Grade Reinforcement Requirements. Wire No. 6 paving mesh or approved equal by the building commissioner, shall be placed in center of slab and tied to No. 4 rerod in footing ASTM standard for rerod and wire shall be as approved by the Uniform Building Code, not withstanding other requirements as set out in the Uniform Building Code and the City Code.

B. Maximum height of the side walls shall not exceed nine (9) feet, four and one-half (4 1/2) inches from the floor to the top of plate, studs placed on twenty-four (24) inch centers, rafters on twenty-four (24) inch centers of two (2) inch by six (6) inch material of two (2) inch by four (4) inch approved trusses maximum pitch of roof shall not exceed six (6) inches per foot run.

C. Concrete floor shall be a minimum of four (4) inches in thickness reinforced with minimum of No. 10-wire mesh.

2. Maximum size of garage or out building shall be determined by formulas set forth in the City Code under Title VI Chapter 7 Article 3 "District Regulations."
(Ord. 360, 1998: Ord. 240, 1986)

2.3-1.07 EXCAVATIONS - WARNING MARKERS - RESTORATION.

All excavations for the construction and installation of all buildings and related improvements including sewer, water and other utilities under this chapter shall be adequately guarded with barriers and lights so as to protect the public from hazard. The building permit applicant shall provide a deposit in the amount of five hundred dollars (\$500.00) to the city. All streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city within thirty (30) days from the completion of the construction and/or installation. The determination as to whether the public property has been restored in a manner satisfactory to the city shall be determined by the public works director. If the restoration is not completed within the thirty (30) day period, or is not performed in a manner satisfactory to the city, then the public works director may restore the public property in a manner satisfac-

tory to the city and apply the deposit to the cost of the restoration of the public property.

(Ord. 369 (part), 2000)

CHAPTER 2 - DISPLAY OF ADDRESS NUMBERS

2.3-2.01 DISPLAY REQUIRED.

All building, excluding private garages, must display their address numbers in a highly visible area to be seen easily by the fire, police and ambulance personnel. In rural areas, they should also be displayed on a mailbox at the driveway to the property. Private garages may also have the address numbers displayed in the case of an emergency in a garage, where the emergency vehicles may enter through an alley, and not see the numbers on the residence.

(Ord. 265, 1990)

TITLE III - MENTAL AND PHYSICAL HEALTH CHAPTER 1 - NUISANCES

ARTICLE 1 GENERAL PROVISIONS

3-1.0101 DEFINITIONS.

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

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

(Code of Iowa, 1975, Sec. 657.1)

A. Offensive Smells. The erecting, continuing or using of any building or other place for the exercise of any trade, employment or manufacture, which, by occasioning noxious exhalations, offensive smells, or other annoy-

ances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.

(Code of Iowa, 1975, Sec. 657.2 [1])

B. Filth or Noisome Substance. The causing or suffering any offal, filth or noisome substance to be collected or to remain in any place to the prejudice of others.

(Code of Iowa, 1975, Sec. 657.2 [2])

C. Impeding Passage of Navigable River. The obstructing or impeding without legal authority the passage of any navigable river, harbor or collection of water.

(Code of Iowa, 1975, Sec. 657.2 [3])

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

(Code of Iowa, 1975, Sec. 657.2 [4])

E. Blocking Public and Private Ways. 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, 1975, Sec. 657.2 [5])

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

(Code of Iowa, 1975, Sec. 657.2 [7])

G. Cottonwood Trees. Cotton-bearing cottonwood trees and all other cotton-bearing poplar trees.

(Code of Iowa, 1975, Sec. 657.2 [8])

H. Abandoned Appliances. Placing or allowing to be placed, any discarded, abandoned, unattended or unused refrigerator, ice box, oven 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 ac-

cessible to children, outside any building, dwelling or within an unoccupied or abandoned building or dwelling, or other structure, under the control of any person without first removing the door, lid, snap lock, or other locking device from said icebox, refrigerator, oven, or similar container. This provision applies equally to the owner of any such refrigerator, ice box, oven or similar container, and to the owner or occupant of the premises where the hazard is permitted to remain. Any such discarded, abandoned, unattended appliances shall be removed from the premises within seven days.

(Ord. 448,2011; Code of Iowa, 1975, Sec. 732.21)

I. Storing of Inflammable Junk. The depositing or storing of inflammable junk, such as old rags, rope, cordage, rubber, bones and paper, by dealers in such articles within the fire limits of the city, unless it be in a building of fireproof construction.

(Code of Iowa, 1975, Sec. 657.2 [10])

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

(Code of Iowa, 1975, Sec. 657.2 [11])

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

(Code of Iowa, 1975, Sec. 657.2 [12])

L. Dutch Elm Disease. Trees infected with Dutch Elm Disease.

(Code of Iowa, 1975, Sec. 657.2 [13])

M. Airport Air Space. Any object or structure hereafter erected within one thousand (1,000) feet of the limits of any municipal or regularly established airport or landing place, which may endanger or obstruct aerial navigation including take-off and landing, unless such object or structure constitutes a proper use or enjoyment of the land on which the same is located.

(Code of Iowa, 1975, Sec. 657.2 [9])

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

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

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.

Q. All wood piles are to be stacked. Un-stacked piles of wood are a nuisance.

(Ord.449,2011)

3-1.0102 NUISANCES PROHIBITED.

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

ARTICLE 2 ABATEMENT PROCEDURE

3-1.0201 NUISANCE ABATEMENT.

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

(Code of Iowa, 1975, Sec. 364.12 [3h])

3-1.0202 NOTICE TO ABATE:.

Contents. The notice to abate shall contain:

(Code of Iowa, 1975, Sec. 364.12 [3h])

1. Description of Nuisance. A description of what constitutes the nuisance or other condition.

2. Location of Nuisance. The location of the nuisance or condition.

3. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance or condition.

4. Reasonable Time. A reasonable time within which to complete the abatement.

5. Assessment at City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the city will abate it and assess the costs against such person.

3-1.0203 METHOD OF SERVICE.

The notice may be in the form of an ordinance or sent by certified mail to the property owner.

(Code of Iowa, 1975, Sec. 364.12 [3h])

3-1.0204 REQUEST FOR HEARING.

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

3-1.0205 ABATEMENT IN EMERGENCY.

If it is determined that an emergency exists by reason of the continuing maintenance of the nuisance or condition, the city may perform any action which may be required under this chapter without prior notice. The city shall assess the costs as provided in Section 3-1.0207 after notice to the property under the applicable provisions of Section 3-1.0201, .0202 and .0203 and hearing as provided in Section 3-1.0204.

(Code of Iowa, 1975, Sec. 364.12 [3h])

3-1.0206 ABATEMENT BY CITY.

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

(Code of Iowa, 1975, Sec. 364.12 [3h])

3-1.0207 COLLECTION OF COSTS.

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

(Code of Iowa, 1975, Sec. 364.12 [3h])

3-1.0208 INSTALLMENT PAYMENT OF COST OF ABATEMENT.

If the amount expended to abate the nuisance or condition exceeds \$100, the city shall permit the assessment to be paid in up to ten (10) annual installments, to be paid in the same manner and with the same interest as benefited property.

(Code of Iowa, 1975, Sec. 364.13)

3-1.0209 FAILURE TO ABATE.

Any person causing or maintaining a nuisance who shall fail or refuse to abate or remove the same within the reasonable time required and specified in the notice to abate shall be in violation of the city code.

CHAPTER 2 - ANIMAL PROTECTION AND CONTROL

3-2.0101 DEFINITIONS.

1. "Dog": shall mean all members of the species *canis familiaris*.

A. A "dangerous dog": shall mean any dog that (i) while unmuzzled, unleashed, or without the supervision of a person whose verbal commands are obeyed, charges or chases in a terrorizing manner with an apparent attitude

of attack, any person who is upon a street, alley, sidewalk or other public place, or (ii) has a known propensity, tendency or disposition to attack without provocation or to otherwise threaten the safety of persons or domestic animals.

B. A "vicious dog": shall mean any dog that (i) unprovoked, bites or attacks a person causing bodily injury; (ii) severely injures or kills another domestic animal; or (iii) has been found to be a dangerous dog on at least one (1) occasion.

C. No dog shall be declared dangerous or vicious if it bites, attacks or menaces a trespasser on the dog's owner's property, or a person who is contemporaneously tormenting, teasing or abusing the dog.

D. The declaration that a dog is dangerous or vicious shall be made by an animal control officer. Notification of the declaration and the owner's appeal rights shall be made in accordance with the procedures contained in Section 3-2.0255.

2. "Adequate food": shall mean the provisions, at suitable intervals as the dietary requirements of the species so require, of a quantity of wholesome foodstuff suitable for the species and age sufficient to maintain a reasonable level of nutrition in each animal. The foodstuff shall be served in a clean receptacle, dish or container.

3. "Adequate water": shall mean reasonable access to a supply of clean, fresh, potable water provided in a sanitary manner and provided at suitable intervals for the species not to exceed twenty-four (24) hours at any one (1) interval.

4. "Animal": shall mean a living organism, other than human beings, birds, fish or invertebrates, domesticated or wild, and distinguished from other living things by structural and functional characteristics such as locomotion.

5. "Animal control officer": shall mean any humane officer employed by a humane society under contract with the city, any police officer under the jurisdiction of the chief of police, or any other person authorized by the city council to enforce the provisions of this chapter by means of appropriate police powers.

6. "Animal shelter": shall mean a facility which is used to house or contain dogs, cats, or other animals, and which is owned, operated or maintained by the city or operated under contract with the city for the purpose of humane boarding of animals impounded under the provisions of this chapter or any other ordinance.

7. "Boarding kennel": shall mean a place or establishment other than an animal shelter or pound where dogs, cats or other animals, not owned by the proprietor, are sheltered, fed and watered in return for consideration.

8. "Cat": shall mean all members of the feline species regardless of sex.

9. "Commercial breeder": shall mean a person, engaged in the business of breeding dogs or cats, who sells, exchanges, or leases dogs or cats in return for consideration, or who offers to do so, whether or not the animals are raised, trained, groomed or boarded by the person. A person who owns or harbors three (3) or less breeding males or females is not a commercial breeder.

10. "Commercial kennel": shall mean a kennel which performs grooming, boarding, or training services for dogs or cats in return for consideration.

11. "Commission": shall mean the natural resources commission of the Department of Natural Resources created and established by the Code of Iowa.

12. "Euthanasia": shall mean the humane destruction of an animal accomplished by a method that involves instantaneous unconsciousness and immediate death or a method that involves anesthesia, produced by an agent which causes painless loss of consciousness and death during the loss of consciousness.

13. "Fur-bearing animals": shall mean the following which are declared to be fur-bearing animals for the purpose of regulation and protection under this chapter: beaver, badger, mink, otter, muskrat, raccoon, skunk, opossum, spotted skunk or civet cat, weasel, coyote, bobcat, wolf, groundhog, red fox, gray fox, and any other animals defined as fur-bearing by the commission.

14. "Guard dog": shall mean any dog trained or used to protect persons or property by attacking or threatening to attack any person found within the area patrolled by the dog such dog being either securely enclosed within the area at all times or under the continuous control of a trained handler.

15. "Housing facilities": shall mean any room, building or area used to contain a primary enclosure or enclosures.

16. "Owner": shall mean any person having a right of property in an animal, or who keeps or harbors an animal, or who has it in his or her care, or who acts as its custodian, or who knowingly permits an animal to remain on or about any premises owned or occupied by him or her for three (3) or more days.

17. "Person": shall mean an individual, partnership, corporation, or association and includes any officer, employee or agency thereof.

18. "Pet shop": shall mean an establishment where any dog, cat, rabbit, rodent, fish other than live bait, bird, or other vertebrate animal is bought, sold, exchanged or offered for sale.

19. "Primary enclosure": shall mean any structure used to immediately restrict an animal to a limited amount of space, such as a room, pen, cage or compartment.

20. "Take": shall mean any pursuing, hunting, killing, trapping, snaring, netting, searching for, shooting at, stalking or lying in wait for, or attempting any of the foregoing, any animal protected by state laws, regula-

tions or rules adopted by the commission or the ordinance codified in this chapter.

(Ord. 384 (part), 2003)

21. "Agricultural Property": shall mean property zoned "Country Homes" and has a minimum size of one (1) acre.

3-2.0102 LICENSE REQUIRED.

1. Every dog and every cat shall be licensed. Dogs and cats shall be licensed within thirty (30) days of the date they are initially inoculated for rabies and annually within thirty (30) days' time of the date of the current rabies vaccination. No person shall have, harbor, keep or possess any unlicensed dog or cat in violation of this chapter.

2. Licenses shall be purchased at City Hall, Buffalo, Iowa, within thirty (30) days of the animal's most recent rabies vaccination date. A person must present evidence of a current rabies vaccination signed and administered by a licensed veterinarian which shows the date of the vaccination, type of vaccination and the date of the next, subsequent revaccination.

3. Licenses are not transferable between animal owners or animals.

4. Annual license fees shall be determined by a resolution approved by the city council for the following types of animals:

- A. Neutered/spayed dog or cat (altered);
- B. Non-altered dog or cat;
- C. Dog declared "dangerous";
- D. Dog declared "vicious".

In lieu of an animal owner obtaining a license annually, the owner may purchase a multi-year license, which may be obtained to cover the period for which the current rabies vaccination is effective (a multiple year license).

The fee for a multi-year license shall be calculated by multiplying the applicable annual license fee by the number of years the current rabies vaccination covers.

5. Residents age sixty (60) or older and residents who are recipients of Social Security Disability Insurance Benefits may license their neutered dogs or cats for an annual fee of one dollar (\$1.00).

6. Altered dogs, duly and properly trained to aid or assist any person who is blind, deaf or physically handicapped, may be licensed for one dollar (\$1.00) annually when the dog is owned or maintained by a person actually training the dog to be used to aid or assist persons who are blind, deaf or physically handicapped, or is owned by a blind, deaf or physically handicapped person. The burden of proving that a dog is being trained to assist a person who is blind, deaf or physically handicapped is on the person seeking to license the dog. The humane society may require documentation of the person's affiliation with an organization established for the purpose of training dogs to provide aid or assistance to blind, deaf or physically handicapped persons or whatever evidence the humane society deems satisfactory to establish the validity of such claim.

7. The owner of a dog that has been declared a dangerous dog may qualify to license said dog for the normal licensing fee upon proof that the owner and said dog have attended and successfully completed a dog obedience class or similar program approved by the humane society.

8. Upon proof of loss, a duplicate license tag may be obtained upon payment of a two dollar (\$2.00) replacement fee.

9. A person owning or possessing any dog or cat who moves into the city shall obtain a license for said animal within thirty (30) days of the date the person takes up residency in Buffalo.

10. Notwithstanding the licensing requirements of this chapter, the following animals shall not be required to be licensed while in the city:

A. Animals whose owner or custodian is a non-resident of the city and who are visiting within the city temporarily. Temporarily means for a period of time thirty (30) days or less within any consecutive twelve (12) month period.

B. Animals brought into the city for participation in a show, exhibition, demonstration or exhibit and which remain in the city for a period of thirty (30) consecutive days or less.

11. The executive director of the Scott County Humane Society or police officer or an animal control officer may revoke a person's privilege to license and keep a dog or cat within the city. Such revocation may be for a period of not more than one (1) year. Revocation of the privilege to license and keep a dog or cat within the city may be initiated if the owner or custodian of the dog or cat has committed six (6) violations of the provisions of this chapter, except that violations for failing to license a cat, non-dangerous dog or non-vicious dog shall not be included as violations leading to revocation within any consecutive twelve (12) month period. A violation shall be shown by a conviction upon a citation or a finding by the city council or by a non-appealed notice of violation.

12. An owner or custodian whose privilege has been revoked shall, within ten (10) days after notice of the revocation, remove from their residence all dogs and cats which the person owns, keeps, harbors or maintains. If the license is revoked, the owner or custodian shall surrender the animal to the humane society or permanently remove the animal from the (city/county) within five (5) calendar days after either the time for appeal has expired or the decision of the city clerk has been served on the owner or custodian. If the animal is found in the city after the five (5) day period, it shall be immediately impounded. Failure to remove a dog or surrender it to the humane society may be prosecuted as a municipal infraction violation or simple misdemeanor. An owner whose license has been revoked shall inform the humane society in writing upon the animal's removal from the city/county, the name,

address and telephone number of the animal's new owner, the location where the animal will be kept and the name and description of the animal. In addition, the owner shall notify the new owner in writing of any details concerning any and all complaints concerning the animal, and any terms, conditions or restrictions imposed by the humane society as to the animal. The owner shall provide the humane society with a copy of the notification provided to the new owner as well as an acknowledgement by the new owner of the receipt thereof.

13. Upon revocation of a person's privilege to license and keep dogs or cats, no part of the license fee shall be refunded.

14. During the period of revocation, any dog or cat which the person owns, keeps, harbors or maintains at their residence may be immediately confiscated upon its discovery and disposed of by the humane society absent clear and convincing proof that the animal or animals belong to a person visiting the resident.

15. The humane society or animal control officer shall provide the owner or custodian of the animal or animals, as shown on the records at the humane society, so confiscated with notice of the confiscation. If the animal or animals are unlicensed or no record exists as to the owner or custodian of an animal, notice of confiscation shall be directed to the address of the residence.

16. Any person whose privilege to license and keep animals has been revoked, but who owns, keeps harbors or maintains a dog or cat during the period of the revocation shall have an additional period of up to one (1) year added to the original period of revocation for each violation of the revocation.

17. The notice of initial revocation, any notice of the extension of the revocation period, and any notice of confiscation of any animal may be appealed to the city clerk pursuant to the procedures set forth in Section 3-2.0255. Any notice sent pursuant to this section shall contain a brief explanation of the violation, the sanction imposed and appeal rights of the person accused. If the

accused can demonstrate by clear and convincing evidence that they have played no role in the care, supervision, possession or control of the animal, the animal shall be returned.

18. When permanent ownership of an animal is transferred, the new owner shall, within fourteen (14) days from the date ownership is assumed, obtain a license if the animal is required to be licensed pursuant to this chapter.

(Ord. 384 (part), 2003)

3-2.0103 DISPLAY OF LICENSE.

The license tag obtained pursuant to Section 3-2.0102 shall be securely attached to a substantial collar which collar shall be worn by the animal at all times. License tags are not transferable to any other animal. Upon demand, the owner of an animal shall display the city license to an animal control officer or police officer.

(Ord. 384 (part), 2003)

3-2.0104 RABIES VACCINATION AND REPORTING.

1. All dogs, cats and ferrets shall be inoculated against rabies by a licensed veterinarian upon such animal attaining the age of six (6) months old. Rabies vaccinations shall be readministered at least once every three (3) years for dogs and cats and once every year for ferrets or as otherwise recommended by the United States Department of Agriculture.

2. A person who acquires a dog, cat or ferret that does not have a current rabies vaccination certificate shall have the animal inoculated for rabies within thirty (30) days after the animal was acquired or within thirty (30) days of the animal attaining the age of six (6) months, if the animal was not yet six (6) months old when acquired.

3. The owner or custodian of any animal required to be vaccinated against rabies shall keep a current rabies vaccination tag securely attached to a substantial collar which shall be worn by the animal at all times.

4. Whenever a veterinarian inoculates an animal for rabies, the veterinarian shall complete a rabies vaccination report which shall be forwarded to the city or its designee. The report shall contain the following information:

- A. The name, age and sex of the animal;
- B. A general description of the animal;
- C. The date the current vaccination was given to the animal;
- D. The revaccination date;
- E. The vaccination tag number assigned to the animal; and
- F. The name and address of the animal's owner or custodian.

The veterinarian shall sign the report and all reports shall be sent to the humane society within thirty (30) days of the administration of the vaccination.

(Ord. 384 (part), 2003)

3-2.0105 REPORT OF BITES REQUIRED.

1. Any person having knowledge of any dog, cat, or ferret bite or scratch which has caused a skin abrasion upon any person or for which the victim required medical attention, which bite or scratch occurred within the city, shall immediately report such fact to the Buffalo Police Department. This section shall not apply if said bite or scratch occurred while the animal was being treated, confined, or housed within a veterinary hospital or clinic and that facility knows such animal is currently inoculated for rabies and has the certification to prove such inoculation. In such cases reporting of the bite or scratch shall be discretionary with the veterinary hospital or clinic.

2. Any animal that has been involved in biting a person or other animal must be quarantined for ten (10) days from the date of that bite. Such confinement may be

at the premises of the owner if deemed appropriate and sufficient safeguards are provided to the discretion of the animal control officer and/or the Scott County Health Department. If an animal is not quarantined at the owner's premises it shall be confined at the animal shelter or at a licensed veterinary hospital of the owner's choosing. All costs of the quarantine shall be the owner's liability. This section shall not apply to police canines.

3. The owner of an animal that has been reported as having inflicted a bite on a person or other animal shall, on demand, produce the animal for examination and quarantine to an animal control officer or police officer. It is unlawful to fail to or refuse to produce such an animal. Failure to produce an animal demanded shall subject the owner or custodian to arrest if probable cause exists to believe the animal inflicted a bite on a person or other animal.

4. It is unlawful for any person to remove any animal which has been quarantined pursuant to this chapter from its place of quarantine without the express consent of an animal control officer and/or Scott County Health Department officer.

(Ord. 384 (part), 2003)

3-2.0155 LIVESTOCK AND POULTRY PROHIBITED.

1. It shall be unlawful to maintain, keep or harbor any cattle, swine (except Vietnamese or Asian pot-bellied pigs), sheep, llamas, horses, jacks, goats, guinea fowl, ostriches, poultry (domestic chickens, turkeys, geese and ducks), or similar domestic animals raised for home use or for profit within the city limits unless the property upon which such animals are maintained, kept or harbored is zoned as agricultural property. This section shall not apply to a bona fide zoological garden, pet shop, educational institute, circus, carnival or veterinary hospital treating such animals.

2. It shall be unlawful for any person to ride any animal upon the public or private sidewalks within the city, nor shall any person ride any animal upon a public street or right-of-way during the hours of sunset to sun-

rise, except for public parades for which a permit has been issued by the city.

3. The lawful keeping of livestock may be continued upon property located within the city which does not meet the requirements of this chapter provided livestock was maintained thereon prior to the enactment of this chapter, and may e continued until such time as livestock is no longer kept or maintained upon such property. The burden of proving the maintenance of livestock upon a parcel of land within the city prior to the enactment of this chapter shall lie with the person claiming such prior existence. Noting in this section shall be deemed to exempt an owner of livestock within the city limits from the enforcement of nuisance of nuisance or other laws regarding the keeping of such livestock.

(Ord. 420 2008, Ord. 384 (part), 2003)

3-2.0160 ANIMAL RUNNING AT LARGE.

1. It shall be unlawful for the owner or custodian of any dog, cat or other animal to fail to keep the same from running at large within the city. For the purpose of this chapter, an animal shall not be deemed running at large, even if the animal is not restrained, as long as one of the following situations applies:

A. When the animal is restrained either upon the premises of the owner or custodian or upon another's premises with the permission of the owner of that premises, so long as the animal is restrained in such a manner that it cannot enter on the public streets, sidewalks, alleys, other public areas, or property not owned by the owner, custodian or permittee.

B. When the animal is confined or restrained upon the premises of the owner or custodian within a secured building, or within a secured pen, enclosure or similar structure which has secured sides, bottom and top such that the animal cannot escape, or within fencing or similar means secured such that the animal cannot escape and which is fastened by an adequate locking device.

C. When an animal is enclosed within an automobile or other vehicle of its owner or custodian such that it

cannot escape and such that said confinement does not endanger the animal's health or well-being.

D. When the animal is being walked off the premises of its owner or custodian so long as the animal is on a leash not more than six (6) feet in length and under the control of a person competent to restrain and control the animal.

E. When the animal is properly housed in a veterinary hospital or registered kennel.

2. Notwithstanding any provision to the contrary, animals injured or killed on or along public streets or public right-of-ways shall be deemed running at large. The animal control officer or a Buffalo police officer shall remove all such animals at his or her discretion and take such an animal needing medical attention to a veterinarian or animal shelter. The owner or custodian of such an animal shall be responsible and liable for the expenses of medical treatment and care as well as impoundment fees and any other penalties imposed by this chapter.

3. Every female dog or cat in heat shall be confined in a building or secure enclosure during the period of heat, in such a manner as will prevent the animal from coming into contact with other animals unless the animal is used in a planned breeding situation. An animal is deemed to be in heat when it is in an estrogous state or ovulating. Nothing in this subsection shall be construed to prohibit exercising the animal provided the animal is restrained on a leash or similar restraint not more than six (6) feet in length and is under the control of a person competent to restrain and control the animal or from transporting such animal within a motor vehicle.

4. Any dog, cat or other animal which is found in violation of this section is subject to immediate impoundment. Any such animal impounded may be redeemed by its owner or custodian within five (5) days from the time specified in Section 3-2.0240 and; upon payment of the applicable redemption fee; current rabies vaccination fee unless current rabies inoculation is proven; the current licensing fees and penalties if the animal is unlicensed;

the impoundment fees; and the fees, costs and charges for any emergency medical treatment administered to the animal. Redemption fees are to be determined by the city council for the following types of violations:

- A. First violation;
- B. Second violation;
- C. Third violation;

D. Fourth or subsequent violation will result in the issuance of a municipal infraction citation or notice of violation.

5. Any violation of this section may result in the immediate apprehension and impoundment of the animal by an animal control officer. After the time specified in Section 3-2.0240, the humane society may dispose of an unredeemed animal. If an animal control officer is unable to apprehend an animal or impoundment is not feasible, the animal control officer shall provide the owner or custodian of the animal with a notice of violation under the procedures contained in Section 3-2.0209.

(Ord. 384 (part), 2003)

3-2.170 MISTREATMENT OF ANIMALS.

1. A person who does any of the following to an animal commits animal neglect:

A. Confines the animal without adequate food, water or shelter, or in a manner that creates an unreasonable threat to the animal's health or safety;

B. Fails to supply adequate food or water to an unconfined animal owned or cared for by the person;

C. Causes injury or death to an animal when disciplining it;

D. Causes unnecessary pain and suffering to an animal by failing to adequately tend to the animal's health needs or grooming.

2. The disposition of a neglected animal shall be governed by state law.

3. No person shall torment, tease or harass any tied, fenced or otherwise confined animal.

4. No person shall expose any poison, poisonous meat or poisonous substance anywhere within the city for the purpose of poisoning any animal. This section shall not apply to a person who exposes poisons about a premises, in accordance with the labeling instructions on the poisonous product, for the purpose of exterminating insects, mice or rats. The use of any poison other than one specifically produced for exterminating insects, mice or rats shall be prima facie evidence of a violation of this section.

5. No person shall abandon any animal or cause such to be done, except that a person may deliver an animal to another person who accepts ownership of such animal or the person may deliver an animal to the humane society.

6. A violation of this section may be charged as a simple misdemeanor.

(Ord. 384 (part), 2003)

3-2.180 REMOVAL OF EXCREMENT.

1. An owner or custodian of any animal shall keep all structures, pens, coops, or yards wherein an animal is confined clean and free from excrement and the odor arising from excrement. Such area shall also be clean and free of vermin and anything that is likely to become putrid, offensive or injurious to health. An area, structure, pen, coop or yard not maintained in a clean and sanitary condition may be declared a public nuisance.

2. It shall be unlawful for an owner or custodian to permit an animal to discharge excrement upon any public property, common area, common thoroughfare, street, sidewalk, alley, play area, park or private property unless the excrement is immediately picked up and disposed of in an appropriate refuse container. If the owner of private property has given another owner or custodian permission

for their animal to use their private property then this section shall not apply to that particular usage.

3. Animal excrement shall not be placed in storm sewers or street gutters, but shall be picked up and disposed of in a sanitary manner in an appropriate refuse container.

(Ord. 384 (part), 2003)

3-2.0190 NUMBER OF ANIMALS REGULATED.

1. It is unlawful for any person to keep or maintain at any one location within the city more than four (4) of the following types of animals, those being dogs, cats, ferrets, and pot-bellied pigs; and of those four (4), no more than three (3) shall be of the same species. This limitation applies to animals that are more than six (6) months old or animals that are from more than one (1) litter that are more than three (3) months old. This limitation shall not apply to any person provided that person (a) is licensed to operate a kennel, animal shelter, pet shop, boarding kennel, commercial kennel, commercial breeder operation, veterinary hospital, zoological garden, circus, carnival, educational or medical institution, or research facility as defined by state law (162.10 Code of Iowa 1991), and is in compliance with the zoning ordinances of the city, or (b) if such animals are kept or maintained upon property which is zoned as agricultural property within the city, or (c) if said person has applied for and obtained a permit to keep more than four (4) animals from the humane society of Scott County. Upon receipt of an application for a permit as provided by this section and the payment of a ten dollar (\$10.00) fee, an animal control officer shall inspect the applicant's animal housing facilities and the sanitary condition of the same. If the housing facilities are adequate and kept in a sanitary condition an excess number of animals permit shall be issued.

2. Indoor pets such as gerbils, hamsters, guinea pigs, mice, birds, fish, snakes and reptiles, and similar animals normally maintained as pets in an enclosure inside of a dwelling are not proscribed by this section unless specifically regulated by other sections.

3. If a person is found to be keeping more than four (4) animals without the permit required by this section, the excessive number of animals may be immediately removed from the property and impounded. Any such impounded animals shall be held for seven (7) days and if the owner has not either complied with the requirements of this section or petitioned the court for the return of the animals by the end of the seventh day, the animal shelter shall seek to permanently place the animals or euthanize such animals.

(Ord. 384 (part), 2003)

3-2.0200 WILD, EXOTIC OR DANGEROUS ANIMALS
PROHIBITED.

1. It shall be unlawful for any person to own, possess, harbor, maintain, sell or traffic in any of the following wild, exotic or dangerous animals:

A. All poisonous snakes and poisonous reptiles; all non-poisonous snakes greater than ten (10) feet in length; Gila monsters, alligators, crocodiles and caimans;

B. Gorillas, chimpanzees, orangutans, baboons, and other non-human primate mammals, both arboreal and non-arboreal;

C. Any species of feline not falling within the categories of ordinary domesticated house cats as established by the American Cat Fancier Association;

D. Bears of any species;

E. Raccoons, porcupines, skunks, badgers and other similar fur-bearing animals except ferrets;

F. Foxes, wolves, coyotes or other species not falling within the category of canis familiaris;

E. Any animal of any species known to be vicious or dangerous, excluding canis familiaris.

2. Any wild, exotic or dangerous animal found within the city in violation of this section is deemed a public nuisance per se. If a wild, exotic or dangerous

animal is found to be roaming at large within the city, it may, in the discretion of the police department or animal control officer, be destroyed immediately without prior notice to the owner thereof. The city and its agents shall be under no duty or obligation to capture or otherwise confine the animal.

3. Any person found to be keeping, sheltering, harboring or maintaining a wild, exotic or dangerous animal in violation of this section is subject to the animal's immediate seizure as contraband. Any animal so seized shall be held for three (3) business days. If the owner has not petitioned the court regarding disposition of the animal and served notice of the pendency of the owner's petition for disposition of the animal on the humane society within that time period, the humane society may euthanize the animal or permanently place it with an entity which is exempt from the provisions of this section. If necessary, the animal control officer or humane society may impound a wild, exotic or dangerous animal at another facility. The animal's owner shall be responsible for all costs and expenses incurred by the humane society or the city which arise as a result of the seizure and impoundment of a wild, exotic or dangerous animal. Under no circumstance shall a wild, exotic or dangerous animal be returned to or placed with a non-exempt entity within the city limits. If a wild, exotic or dangerous animal is ever again found to be within the city in violation of this section, it shall be immediately confiscated and disposed of as the humane society deems appropriate.

4. The prohibition contained in Section 3-2.0200 of this chapter shall not apply to the keeping of poisonous snakes, poisonous reptiles, Gila monsters, crocodiles, alligators and caimans provided that the owner of such an animal is eighteen (18) years of age or older, and that person has either (a) received a bachelor of science degree based upon courses of instruction which included courses in herpetology from an accredited college level institution, or (b) has successfully completed a course of instruction taught under the auspices of a bona fide municipal zoo on the proper handling, care and keeping of such animals, or (c) has completed a course of instruction of at least twenty (20) hours duration at an accredited

educational institution on the care, handling, and keeping of reptiles, and (d) has applied for and received from the humane society a permit to keep such animals, such application to be on a form approved by the city council.

(Ord. 384 (part), 2003)

3-2.0210 VICIOUS DOGS.

1. No person shall keep or maintain any dog that has been declared a vicious dog unless such dog is kept in an enclosure or on a run-line located within a fenced area. The enclosure must be capable of containing the dog and must have a secure top, bottom and sides. Additionally, the enclosure must incorporate a system which prevents access by children. The enclosure must not be located nearer than ten (10) feet to adjoining property lines or public rights-of-way. The run-line shall consist of a chain or cable having a tensile strength of at least three hundred (300) pounds which does not allow the dog to get closer than ten (10) feet from adjoining property lines or public rights-of-way. In addition, if the dog is kept on a run-line within a fenced area, the dog shall be muzzled at all times.

2. If a vicious dog is not within an enclosure or on a run-line within a fenced area, the dog shall be either within the owner's residence or muzzled and restrained with a chain or cable leash having a minimum tensile strength of at least three hundred (300) pounds that is no more than four (4) feet in length. If the dog is on a leash, the leash must be controlled by an adult who can control the dog.

3. No person shall keep, use or maintain any dangerous or vicious dog on any premises unless the premises is posted to warn of the presence of dangerous or vicious dogs. Said warning shall consist of a sign placed at each entrance/exit for the premises in a position to be legible from the sidewalk or ground level adjacent to the sign. If the premises is not enclosed by a fence and the dog is kept within an enclosure, a sign shall be posted on every side of the enclosure in a position to be legible from the sidewalk or ground level.

4. No person shall sell, exchange, transfer or give a vicious dog to another person.

5. Owners and custodians of vicious dogs shall post their property with conspicuous signs warning of the presence of a vicious dog.

6. A vicious dog must be neutered or spayed.

7. A vicious dog that inflicts bodily injury on a person or other animal by biting after it has been declared vicious, or a vicious dog not kept or maintained in compliance with this section, constitutes a public hazard and shall be seized and destroyed.

8. This section shall not apply to police canines and guard dogs. Guard dogs must be registered with the humane society and licensed and are restricted to property zoned non-residential. The annual fee for registration of a guard dog shall be ten dollars (\$10.00). The registration form shall include the dog's location by address; the dog's gender and general description, the dog's current city license number, the dog's current rabies vaccination number, and the name of an emergency contact person who is available twenty-four (24) hours a day. Guard dogs shall be confined to a fenced-in area that is adequate to prevent the dog from escaping the fenced area. The fenced area shall be clearly posted with warning signs.

9. A violation of any of the provisions of this section may be charged as a simple misdemeanor offense.

(Ord. 384 (part), 2003)

3-2.0220 DAMAGE TO PROPERTY.

No person shall allow or permit their animal to damage, injure, or destroy any shrubbery, plants, flowers, grass, fence, or anything whatsoever upon public or private property without prior permission from the property owner or authorized person.

(Ord. 384 (part), 2003)

3-2.0230 BARKING DOGS REGULATIONS.

It shall be unlawful to keep or harbor any dog which, by frequent, regular, habitual, or continued barking,

yelping, or howling shall cause serious annoyance to the surrounding neighborhood. Such action is a violation of this chapter and is also declared a public nuisance. The animal control officer or a Buffalo police officer shall have the authority to use all reasonable means to abate such nuisance, including but not limited to requiring that the owner or custodian make bona fide efforts to quiet the dog and impoundment of the dog if the owner or custodian is absent from the premises. If the dog is impounded, the officer shall attempt to locate and notify the absent owner or custodian by any reasonable means as soon as possible.

(Ord. 384 (part), 2003)

3-2.0240 IMPOUNDMENT.

1. The city may establish and maintain a municipal animal shelter or the city may contract with any non-profit incorporated society or association which shall provide and maintain an animal shelter for the enforcement of this chapter. It shall be the duty of the persons authorized by the city to operate such animal shelter to supervise and control such facility, to cause the shelter to be kept in a sanitary condition and free from offensive odors, to provide for adequate food, water and shelter, to provide for the collection of animals, to handle the destruction or disposition of animals not redeemed, and to assist in the enforcement and operation of this chapter. The provisions of this chapter shall be enforceable by any animal control officer and by members of the Buffalo Police Department.

2. Impoundment Procedure. Unrestrained animals found running at large, nuisance animals, neglected animals, abandoned animals, and cats or dogs running at large without license tags or rabies vaccination tags shall be taken and impounded in the animal shelter and there confined in a humane manner.

3. Notice. Upon impounding a licensed animal the owner or custodian of the animal shall be given a written notice of the impoundment by the impoundment authority within two (2) days and the owner shall then have five (5) days to redeem the animal not counting the day of impoundment. If an impounded animal is unlicensed or not display-

ing a license pursuant to Section 3-2.0103, the impoundment authority shall have no obligation to search for or provide notice to the owner or custodian.

4. No animal need be kept for the period of notification or impoundment if a licensed veterinarian or animal control officer certifies that the animal is so diseased or injured that it is unduly suffering or cannot survive. In such cases the animal may be subjected to humane euthanasia.

5. Unclaimed Animals. Animals not reclaimed or redeemed 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 subjected to humane euthanasia. No unclaimed dog or cat shall be released for adoption to a suitable home without being sterilized, or without a written agreement from the adopter, secured by a cash deposit, guaranteeing that such animal will be sterilized.

6. The refusal to redeem or reclaim any impounded animal shall not relieve the owner of the duty to pay the impoundment fees, boarding fees, veterinarian expenses, or any other costs incurred in the care of the animal. An owner or custodian who refuses to pay such expenses shall be in violation of this chapter and subject to citation for the same.

7. Neither the city nor the animal shelter, nor their agents and officers enforcing the provisions of this chapter shall be liable for any accident or subsequent disease that may occur in connection with the impoundment of any animal pursuant to this chapter.

8. Claim Fees. A person redeeming an impounded dog or cat shall pay the required redemption fee as stated in Section 3-2.0160 for a first, second or third offense and the required boarding fees as provided for by this section. In addition, before an unlawfully unlicensed animal may be redeemed the person redeeming the animal must obtain a license as stated in this chapter. In addition, a person redeeming an animal shall pay any additional fees required under the provisions of this chapter, including

any monies expended for the provision of medical treatment provided to the animal.

The boarding fees for other animals shall be determined by a city council resolution for the following types of animals:

A. For each dog, cat, ferret or similar animal, a daily fee for the animal's care, food, water and shelter;

B. For each domestic fowl, chicken, goose, duck or water fowl, a daily fee for the animal's care, food, water and shelter;

C. For each horse, mule, jack, cow, bull, steer, ox, swine, sheep, goat or similar animals, a daily fee for the animal's care, food, water and shelter;

D. For any animal not specified in this section, a daily fee plus actual expenses incurred for the animal's care, food, water and shelter.

(Ord. 384 (part), 2003)

3-2.0250 ENFORCEMENT PROVISIONS.

1. Humane society employees, animal control officers and Buffalo police officers are authorized to issue municipal infraction citations or notices of violations for violations of the provisions of this chapter. If provided for by a section of this chapter, a Buffalo police officer may enforce a violation of a section as a simple misdemeanor.

2. It is unlawful for any person to interfere with, hinder, willfully prevent or attempt to prevent any police officer, animal control officer, or person authorized to enforce this chapter by the city administrator in the enforcement of this chapter.

3. Inspection Procedures. Whenever it becomes necessary to make an inspection to enforce any of the provisions of or to perform any duty imposed by this chapter or other applicable law, or whenever the animal control officer or other authorized person has reasonable cause to believe that there exists in any building or upon any prem-

ises any violation of the provisions of this chapter or other applicable law, the officer is authorized to enter such property at any reasonable time and to inspect the same and perform any duty imposed upon the officer by this chapter or other applicable law. If the property is occupied, the officer shall first present proper credentials to the occupant and request entry, explaining the reasons entry is sought. If the property is unoccupied, the officer shall first make a reasonable effort to locate the owner or other person in control of the property and request entry explaining the reason therefor. If entry is refused, or the owner or person in control of the property cannot be located after due diligence, the officer shall have recourse to every remedy provided by law to secure lawful entry and inspect the property.

4. Immediate Inspection. Notwithstanding subsection 3 of this section, if the animal control officer or police officer has reasonable cause to believe that the keeping or the maintenance of any animal is so hazardous, unsafe or dangerous as to require immediate inspection to safeguard the animal or the public health or safety, the officer shall have the right to immediately enter and inspect such property, and may use any reasonable means required to effect such entry and make such investigation, whether the property is occupied or unoccupied. If occupied, the officer shall first present proper identification and demand entry explaining the reasons therefor and the purpose of the inspection.

(Ord. 384 (part), 2003)

3-2.0255 NOTICE OF VIOLATION; CONFISCATION;
REVOCATION.

1. An animal control officer or police officer may send a notice of violation to an animal's owner or keeper. A notice of violation initiates administrative sanction procedures for violations of this chapter, revocation of a person's privilege to license or keep animals, extension of the period of revocation, confiscation of an animal or a declaration that a dog is declared dangerous or vicious.

2. The notice of violation shall briefly state the type of notice it is, the facts prompting the notice, the administrative sanction imposed, the notice recipient's

appeal rights and the date by which the recipient must request a hearing, not less than five (5) days after the date of the notice, or waive their right to a hearing.

3. The notice of violation shall be either hand-delivered by the animal control officer or police officer or be sent by certified mail.

4. The notice recipient may appeal a notice of violation by requesting a hearing in writing before the city clerk and paying an administrative fee of twenty dollars (\$20.00). If the recipient of the notice does not appeal, the notice of violation sanctions imposed are final. If an appeal is properly requested, then an informal appeal hearing shall be held before the mayor as soon as practicable. At the informal hearing, both the city and the notice recipient or the recipient's legal counsel may present evidence and cross-examine witnesses. The mayor may also ask questions of witnesses. The mayor shall render a written decision within thirty (30) days after the conclusion of the hearing.

(Ord. 384 (part), 2003)

3-2.0260 NUISANCES.

1. Any animal which is not confined or kept under restraint as required by this chapter, and any wild, exotic, dangerous or vicious animal kept or maintained within the city in violation of this chapter, any animal which barks so frequently, regularly, or habitually that it causes serious annoyance to the surrounding neighborhood, is declared a public nuisance.

2. Whenever an animal control officer or police officer determines that a nuisance exists, the officer may cause a written notice ordering the abatement of the nuisance to be served upon the owner or custodian. The notice to abate shall contain a description of what constitutes the nuisance, the location of the nuisance, a statement of the act or acts necessary to abate the nuisance, a definite time within which the nuisance shall be abated which time shall be reasonable under the circumstances, and a statement that the city will abate the nuisance if the nuisance is not abated in the manner and within the time stated and no request for a hearing is made within the

time stated. Notice to abate shall be served personally upon the owner or custodian by serving the owner or custodian or any person residing at the residence who is at least eighteen (18) years old, or by serving the owner or custodian by certified mail return receipt requested. If service is by certified mail, services shall be deemed given when mailed.

3. Any person ordered to abate a nuisance may request a hearing on the order to abate by delivering a written request for a hearing to the animal control officer who ordered the abatement and paying an administrative fee of twenty dollars (\$20.00). Such a request must be delivered prior to the time specified in the notice to abate or it will be conclusively presumed that a nuisance exists and it must be abated as ordered. Any hearing so requested shall be held within thirty (30) days of the date the written appeal is delivered to the animal control officer and shall be in front of the mayor. At the conclusion of the hearing, the mayor shall render a decision as to: a) whether a nuisance exists; b) if so, what steps the person must take to abate the same; and c) the time frame for the abatement.

4. If a person ordered to abate a nuisance neglects or fails to abate the nuisance as directed, the city may abate the nuisance. If an animal is impounded, the owner or custodian of the animal shall be notified of the impoundment as provided in Section 3-2.0255. Notwithstanding any other provision of this chapter, the impoundment authority shall keep an impounded animal until such time as the animal control officer who ordered the abatement notifies the impoundment authority that the owner or custodian has complied with the order to abate or has abated the nuisance in some other acceptable manner, in which case, the animal may be released to the owner or custodian upon payment of all the costs, fees and other expenses incurred in the care of the animal have been paid. If the impoundment authority is not notified of the owner's or custodian's compliance within three (3) days after the impoundment, in the case of a previously abated nuisance animal, or from the time specified in a formal order of abatement, the impounded animal may be disposed of in the discretion of the humane society.

(Ord. 384 (part), 2003)

3-2.0270 PENALTIES.

1. A violation of any provision of this chapter shall constitute a municipal infraction and may be cited and punished accordingly.

2. If provided for, a section of this chapter may be charged as a simple misdemeanor offense and may be cited and punished accordingly, in lieu of the issuance of a municipal infraction citation, at the officer's discretion.

3. If a notice of violation was issued to a person for a violation of any provision of this chapter pursuant to Section 3-2.0255, then a municipal infraction citation or simple misdemeanor citation shall not be issued to that person for the same incident.

4. The following types of scheduled fines are to be established by the city council for municipal infractions:

A. Section 3-2.0102 (licenses);

B. Section 3-2.0103 (display of tags); Section 3-2.0202 (rabies vaccination); Section 3-2.0160 (at large); and Section 3-2.0180 (animal waste): first offense; second offense; third offense; fourth or subsequent offense up to two hundred dollars (\$200.00);

C. Section 3-2.0210(1) or (2) (vicious dog): first offense; second offense; third or subsequent offense.

5. If no scheduled fine is provided for a violation, then the fine imposed shall not exceed the general fine established by city council resolution for a first, second or subsequent offense.

(Ord. 384 (part), 2003)

CHAPTER 3 - LIQUID WASTES*

* Prior history: Iowa Departmental Rules, 1973; Code of Iowa, 1975.

ARTICLE 1
DEFINITIONS

3-3.0101 GENERALLY.

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as set out in this article.

(Ord. 219A, Art. 1(part), 1983)

3-3.0102 BOD.

"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 twenty degrees Centigrade, expressed in milligrams per liter.

(Ord. 219A, Art. 1 Sec. 1, 1983)

3-3.0103 BUILDING DRAIN.

"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.

(Ord. 219A, Art. 1 Sec. 2, 1983)

3-3.0104 CITY.

"City" shall mean the city or town of Buffalo, Iowa.

(Ord. 219A, Art. 1 Sec. 23, 1983)

3-3.0105 GARBAGE.

"Garbage" shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

(Ord. 219A, Art. 1 Sec. 5, 1983)

3-3.0106 INDUSTRIAL WASTES.

"Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

(Ord. 219A, Art. 1 Sec. 6, 1983)

3-3.0107 NATURAL OUTLET.

"Natural outlet" shall mean any outlet into a water-course, pond, ditch, lake, or other body of surface or groundwater.

(Ord. 219A, Art. 1 Sec. 7, 1983)

3-3.0108 PERSON.

"Person" shall mean any individual, firm, company, association, society, corporation, or group.

(Ord. 219A, Art. 1 Sec. 8, 1983)

3-3.0109 PH.

"pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

(Ord. 219A, Art. 1 Sec. 9, 1983)

3-3.0110 PROPERLY SHREDDED GARBAGE.

"Properly shredded garbage" shall mean the wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch (1.27 centimeters) in any dimension.

(Ord. 219A, Art. 1 Sec. 10, 1983)

3-3.0111 SEWAGE.

"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.

(Ord. 219A, Art. 1 Sec. 13, 1983)

3-3.0112 SEWAGE TREATMENT PLANT.

"Sewage treatment plant" shall mean any arrangement of devices and structures used for treating sewage.

(Ord. 219A, Art. 1 Sec. 14, 1983)

3-3.0113 SEWAGE WORKS.

"Sewage works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.

(Ord. 219A, Art. 1 Sec. 15, 1983)

3-3.0114 SEWER.

"Sewer" shall mean a pipe or conduit for carrying sewage.

(Ord. 219A, Art. 1 Sec. 16, 1983)

3-3.0115 SEWER, BUILDING.

"Building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.

(Ord. 219A, Art. 1 Sec. 3, 1983)

3-3.0116 SEWER, COMBINED.

"Combined sewer" shall mean a sewer receiving both surface runoff and sewage.

(Ord. 219A, Art. 1 Sec. 4, 1983)

3-3.0117 SEWER, PUBLIC.

"Public sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

(Ord. 219A, Art. 1 Sec. 11, 1983)

3-3.0118 SEWER, SANITARY.

"Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

(Ord 219A, Art. 1 Sec. 12, 1983)

3-3.0119 SHALL, MAY.

"Shall" is mandatory; "may" is permissive.

(Ord 219A, Art. 1 Sec. 17, 1983)

3-3.0120 SLUG.

"Slug" shall mean any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.

(Ord. 219A, Art. 1 Sec. 18, 1983)

3-3.0121 STORM DRAIN.

"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.

(Ord 219A, Art. 1 Sec. 19, 1983)

3-3.0122 SUPERINTENDENT.

"Superintendent" shall mean the superintendent of sewage works and/or of water pollution control of the city of Buffalo, or his authorized deputy, agent, or representative.

(Ord 219A, Art. 1 Sec. 20, 1983)

3-3.0123 SUSPENDED SOLIDS.

"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.

(Ord 219A, Art. 1 Sec. 21, 1983)

3-3.0124 WATERCOURSE.

"Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.

(Ord 219A, Art. 1 Sec. 22, 1983)

ARTICLE 2

USE OF PUBLIC SEWERS REQUIRED

3-3.0201 OPEN DEPOSIT OF WASTE.

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.

(Ord. 219A, Art. 2 Sec. 1, 1983)

3-3.0202 DISCHARGE OF UNTREATED WASTE.

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 chapter.

(Ord. 219A, Art. 2 Sec. 2, 1983)

3-3.0203 CONSTRUCTION OF PRIVY.

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.

(Ord. 219A, Art. 2 Sec. 3, 1983)

3-3.0204 INSTALLATION OF FACILITIES.

The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the city and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after date of official notice to do so, provided that said public sewer is within one hundred feet (100') (30.5 meters) of the property line. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

(Ord. 219A, Art. 2 Sec. 4, 1983)

3-3.0205 SEWER MAIN TAPPING FEE.

The city will charge a one (1) time new construction fee of two hundred dollars (\$200.00) to tap into the main sewer line for each new lateral. The owner shall remain responsible for running the sewer line to the main line, and the city will tap into the main line.

(Ord. 293, 1992)

ARTICLE 3
PRIVATE SEWAGE DISPOSAL*

* Prior history: Code of Iowa, 1975.

3-3.0301 CONNECTION TO PRIVATE SYSTEM.

Where a public sanitary or combined sewer is not available under the provisions of Section 3-3.0204, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article.

(Ord. 219A, Art. 3 Sec. 1, 1983)

3-3.0302 PERMIT REQUIRED FOR CONSTRUCTION.

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 fifty dollars (\$50.00) shall be paid to the city at the time the application is filed.

(Ord. 219A, Art. 3 Sec. 2, 1983)

3-3.0303 INSPECTION BY SUPERINTENDENT.

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

(Ord. 219A, Art. 3 Sec. 3, 1983)

3-3.0304 COMPLIANCE WITH STATE RECOMMENDATIONS.

The type, capacities, location, and layout of a private sewage disposal system shall comply with all recommendations of the Department of Environmental Quality of the state of Iowa. 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 fifteen thousand (15,000) square feet. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(Ord. 219A, Art. 3 Sec. 4, 1983)

3-3.0305 CONNECTION TO PUBLIC SEWER WHEN AVAILABLE.

At such time as a public sewer becomes available to a property served by a private sewage disposal system, as provided in Section 3-3.304, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools, and similar private sew-

age disposal facilities shall be abandoned and filled with suitable material.

(Ord. 219A, Art. 3 Sec. 5, 1983)

3-3.0306 OPERATION AND MAINTENANCE.

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

(Ord. 219A, Art. 3 Sec. 6, 1983)

3-3.0307 EFFECT OF ADDITIONAL REQUIREMENTS BY HEALTH OFFICER.

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the health officer.

(Ord. 219A, Art. 3 Sec. 7, 1983)

3-3.0308 RETIREMENT OF PRIVATE SYSTEM.

When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.

(Ord. 219A, Art. 3 Sec. 8, 1983)

ARTICLE 4
BUILDING SEWERS AND CONNECTIONS

3-3.0401 PERMIT--REQUIRED.

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.

(Ord. 219A, Art. 4 Sec. 1, 1983)

3-3.0402 PERMIT--APPLICATION--FEE.

There shall be two classes of building sewer permits: (1) for residential and commercial service, and (2) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment

of the superintendent. A permit and inspection fee of thirty dollars (\$30.00) for a residential or commercial building sewer permit and seventy-five dollars (\$75.00) for an industrial sewer permit shall be paid to the city at the time the application is filed.

(Ord. 219A, Art. 4 Sec. 2, 1983)

3-3.0403 COSTS TO BE BORNE BY OWNER.

All costs and expenses 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.

(Ord. 219A, Art. 4 Sec. 3, 1983)

3-3.0404 SEPARATE BUILDING SEWERS.

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

(Ord. 219A, Art. 4 Sec. 4, 1983)

3-3.0405 USE OF OLD BUILDING SEWERS.

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the superintendent, to meet all requirements of this chapter.

(Ord. 219A, Art. 4 Sec. 5, 1983)

3-3.0406 CONFORMITY TO BUILDING CODES.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and back-filling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.

(Ord. 219A, Art. 4 Sec. 6, 1983)

3-3.0407 ELEVATION OF BUILDING SEWER.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

(Ord. 219A, Art. 4 Sec. 7, 1983)

3-3.0408 CONNECTION OF SURFACE RUNOFF SOURCES.

No person shall make connection of roof downspouts, exterior foundation drains, area drains, sump pump hoses, or other sources of surface runoff of ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

1. Section 3-3.0501 Prohibited Discharge of Storm Water and Runoff, is amended to read as follows:

No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface draining including interior and exterior foundation drains, uncontaminated cooling water, or unpolluted industrial process waters, in the sanitary sewer. Any discharge from a sump pump must be made in such a manner that the water is discharged at least eight feet from a city street, and eight feet from the property lines of the homeowner.

2. Section 3-3.0801 Notice of Violation, is amended to read as follows;

Any person found to be violating any provision of this chapter except Article 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. In the case of a prohibited sump pump discharge, the homeowner shall have thirty days in which to correct the prohibited sump pump discharge into the city sanitary sewer. The

offender shall within the period of time stated in such notice permanently cease all violations.

(Ord. 435 2010, Ord. 219A, Art. 4 Sec. 8, 1983)

3-3.0409 CONNECTION CONFORMITY--APPROVAL OF DEVIATIONS.

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the superintendent before installation.

(Ord. 219A, Art. 4 Sec. 9, 1983)

3-3.0410 INSPECTION BY SUPERINTENDENT.

The applicant for the building sewer permit shall notify the superintendent when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the superintendent or his representative.

(Ord. 219A, Art. 4 Sec. 10, 1983)

3-3.0411 EXCAVATIONS - WARNING MARKERS - RESTORATION.

All excavations for building sewer installations shall be adequately guarded with barriers and lights so as to protect the public from hazard. The applicant for the building sewer permit shall provide a deposit in the amount of five hundred dollars (\$500.00) to be held by the city. All the streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city within thirty (30) days from the completion of the sewer installation. The determination as to the restoration of the streets, sidewalks, parkways and other public property as to whether it is restored in a manner satisfactory to the city shall be determined by the public works director. Upon determination by the public works director that the public property disturbed has been restored in a manner satisfactory to the city, the public works director shall

refund the deposit in the amount of five hundred dollars (\$500.00). If the public property is not restored in a manner satisfactory to the city within thirty (30) days of the completion of the excavation, the public works director may restore the public property in a manner satisfactory to the city and apply the cost of the restoration against the deposit.

(Ord. 369 (part), 2000: Ord. 219A, Art. 4 Sec. 11, 1983)

ARTICLE 5 USE OF PUBLIC SEWERS

3-3.0501 PROHIBITED DISCHARGES - STORMWATER AND RUNOFF.

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.

(Ord. 219A, Art. 5 Sec. 1, 1983)

3-3.0502 DISCHARGE TO STORM SEWERS AND COMBINED SEWERS.

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.

(Ord. 219A, Art. 5 Sec. 2, 1983)

3-3.0503 PROHIBITED DISCHARGES-DESIGNATED.

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas;

2. 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;

3. Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works;

4. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, tar, feathers, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc. either whole or ground by garbage grinders;

5. Any waters or wastes having (1) a five-day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (2) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (3) having an average daily flow greater than two 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 his expense, such preliminary treatment as may be necessary to (1) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (2) reduce the suspended solids to three hundred fifty (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.

(Ord. 219A, Art. 5 Sec. 3, 1983)

3-3.0504 ADDITIONAL PROHIBITED DISCHARGES.

No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his 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:

1. Any liquid or vapor having a temperature higher than one hundred fifty degrees Fahrenheit (sixty-five degrees Celsius);
2. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two and one hundred fifty degrees Fahrenheit (zero and sixty-five degrees Celsius);
3. Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the superintendent;
4. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not;
5. 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;

6. Any waters or wastes containing phenols or other taste-producing or odor-producing substances, in such concentrations exceeding limits which may be established by the superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters;

7. 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;

8. Any waters or wastes having a pH in excess of 9.5;

9. Materials which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate),

B. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions),

C. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works,

D. Unusual volume of flow or concentration of wastes constituting slugs as defined in Section 3-3.0120;

10. 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.

(Ord. 219A, Art. 5 Sec. 4, 1983)

3-3.0505 REGULATION OF DISCHARGES.

If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 3-3.0504 and which in the judgment of the superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the superintendent may:

1. Reject the wastes;
2. Require pretreatment to an acceptable condition for discharge to the public sewers;
3. Require control over the quantities and rates of discharge; and/or
4. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Section 3-3.0510.

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.

(Ord. 219A, Art. 5 Sec. 5, 1983)

3-3.0506 GREASE, OIL AND SAND INTERCEPTORS.

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.

(Ord. 219A, Art. 5 Sec. 6, 1983)

3-3.0507 MAINTENANCE OF PRETREATMENT FACILITIES.

Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(Ord. 219A, Art. 5 Sec. 7, 1983)

3-3.0508 CONTROL MANHOLE.

When required by the superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the superintendent. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

(Ord. 219A, Art. 5 Sec. 8, 1983)

3-3.0509 ANALYSIS OF WASTEWATERS.

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods 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 premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, a BOD and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pHs are determined from periodic grab samples.

(Ord. 219A, Art. 5 Sec. 9, 1983)

3-3.0510 SPECIAL AGREEMENT.

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 therefor, by the industrial concern.

(Ord. 219A, Art. 5 Sec. 10, 1983)

ARTICLE 6
PROTECTION FROM DAMAGE

3-3.0601 DAMAGE TO SEWER WORKS PROHIBITED.

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.

(Ord. 219A, Art. 6 Sec. 1, 1983)

ARTICLE 7
POWERS AND AUTHORITY OF INSPECTORS

3-3.0701 LIMITATIONS OF AUTHORITY.

The superintendent and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this chapter. The superintendent or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

(Ord. 219A, Art. 7 Sec. 1, 1983)

3-3.0702 COMPANY HELD HARMLESS.

While performing the necessary work on private properties referred to in Section 3-3.0701 the superintendent

or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 3-3.0508.

(Ord. 219A, Art. 7 Sec. 2, 1983)

3-3.0703 RIGHT TO ENTER FOR INSPECTION.

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.

(Ord. 219A, Art. 7 Sec. 3, 1983)

ARTICLE 8
PENALTIES

3-3.0801 NOTICE OF VIOLATION.

Any person found to be violating any provision of this chapter except Article 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.

(Ord. 219A, Art. 8 Sec. 1, 1983)

3-3.0802 VIOLATION - PENALTY.

Any person who shall continue any violation beyond the time limit provided for in Section 3-3.0801 shall be

guilty of a misdemeanor, and on conviction thereof shall be fined in the amount not exceeding one hundred dollars (\$100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense.

(Ord. 219A, Art. 8 Sec. 2, 1983)

3-3.0803 LIABILITY TO CITY.

Any person violating any of the provisions of this chapter shall become liable to the city for any expense, loss, or damage occasioned the city by reason of such violation.

(Ord. 219A, Art. 8 Sec. 3, 1983)

ARTICLE 9
SEWER SERVICE RATES AND CHARGES

3-3.0901 SEWER SERVICES DESIGNATED.

There shall be and there are hereby established sewer service charges for the use of and for the service supplied by the municipal sanitary sewer utility based upon the amount and rate of water consumed as follows:

<u>GALLONS USED</u>	<u>RATE</u>
0 - 3,000	\$ 20.53
3,001 & OVER	\$ 20.53 plus \$4.44 per 1,000 gallons or fraction Thereof in excess of 3,000 gal-

lons.

July 1st EVERY YEAR THEREAFTER - A THREE PERCENT (3%) INCREASE SHALL APPLY TO THE MINIMUM AND TWO PERCENT INCREASE SHALL APPLY (2%) THE EXCESS RATE

(Ord.436 2010)

Customers of the sanitary sewer facility who are not also customers of the municipal water system shall pay a minimum charge of twenty two dollars and fifty cents (\$22.50) per month.

Service to industrial establishments may be by contract if the city deems this to be in its best interest.

In the case of non-metered services minimum service charge should not be less than twenty two dollars and fifty cents (\$22.50)per month.

Minimum fees will not be charged if the sewer service is stubbed at the main or if the home has been removed and the sewer lateral is stubbed.

(Ord.427, 2009; Ord. 412, 2006; Ord. 372 § 1 (part), 2001:
Ord. 233, Sec. 1, 1985: Ord. 219, Sec. 1, 1983)

3-3.0902 BILLING SCHEDULE.

Bills for the rates and charges as herein established shall be sent monthly. All bills shall be payable on the first day of the month following the period of service and shall be paid at the office of the utility. If any charge for the services of the system shall not be paid by the tenth day of the month in which it shall become due and payable, a charge of ten percent (3%) of the amount of the bill shall be added thereto and collected therewith. If any bills remain unpaid thirty (30) days following the due date, the water supply for the lot, parcel of land or premises affected may, after a notice and hearing, be cut off and may not be restored except upon satisfactory payment of the delinquent charges.

(Ord. 417, 2007; Ord. 233, Sec. 2, 1985: Ord. 219, Sec. 2,
1983)

3-3.0903 SERVICE CHARGES - NON-MUNICIPAL WATER
SYSTEM - DUE DATE.

The service charges for sanitary sewer services to customers not being supplied water by a municipal water system will be due and payable on the first day of each month.

(Ord. 233, Sec. 3, 1985: Ord. 219, Sec. 3, 1983)

3-3.0904 APPLICATION - FILING - FEE.

Applications for sewer service shall be filed with the utility upon a form to be supplied by the city. The application shall state the name of the applicant and the premises to be served. All applications filed after the commencement of the operation of the system shall be ac-

companied by a fee of two hundred dollars (\$200.00), payable to the city, for the connection charge.

(Ord. 233, Sec. 4, 1985: Ord. 219, Sec. 4, 1983)

3-3.0905 OWNER LIABILITY - DEPOSIT.

The owner of the premises served and the occupant thereof and the user of the sanitary sewer service shall be jointly and severally liable for the sewer service provided said premises. A deposit of forty-five dollars (\$45.00) shall be required from all tenants. The deposit shall be applied to any bill for sewer service delinquent more than thirty (30) days. Upon disconnection of the sewer service, any balance of such deposit shall be returned to the applicant without interest.

(Ord. 233, Sec. 5, 1985: Ord. 219, Sec. 5, 1983)

3-3.0906 DUTY TO RENDER BILLS - NOTIFICATION TO USER.

1. It is hereby made the duty of the city official designated by the council to render bills for sewer service and all other charges in connection therewith and to collect all moneys due therefrom.

2. The city will notify each user at least annually in conjunction with a regular bill, of the rate and that portion of the user charges which are attributable to operation and maintenance and replacement of the treatment works.

(Ord. 233, Sec. 6, 1985: Ord. 219, Sec. 6, 1983)

3-3.0907 CHARGES CONSTITUTE LIEN.

All sewer charges levied pursuant to this article constitute a lien upon the premises served and if not paid within sixty (60) days after due date, the charges shall be certified to the county auditor and shall be collectible in the same manner as taxes.

(Ord. 233, Sec. 7, 1985: Ord. 219, Sec. 7, 1983)

3-3.0908 SEWER REVENUE FUND.

All revenues and moneys derived from the operation of the sewer system shall be paid to and held by the city separate and apart from all other funds of the city and all of said sums and all other funds and moneys incident to the operation of said system, as may be delivered to

the city, shall be deposited in a separate fund designated the sewer revenue fund, and the council shall administer said fund in the manner provided by the Code of Iowa and all other laws pertaining thereto.

(Ord. 233, Sec. 8, 1985: Ord. 219, Sec. 8, 1983)

3-3.0909 RECORDKEEPING - AUDIT - BUDGET.

The city shall establish a proper system of accounts and shall keep proper records, books and accounts in which complete and correct entries shall be made of all transactions relative to the sewer system and at regular annual intervals the council shall cause to be made an audit by an independent auditing concern or the state of Iowa of the books to show the receipts and disbursements of the sewer system. The city shall be required annually to prepare a budget of the sanitary sewer system to show the required revenues and expenses. If necessary, user charge rates will be adjusted to produce adequate income to retire the indebtedness, meet operation, maintenance and replacement needs, and establish required reserves.

(Ord. 233, Sec. 9, 1985: Ord. 219, Sec. 9, 1983)

CHAPTER 4 - SOLID WASTE CONTROL

ARTICLE 1
GENERAL PROVISIONS

3-4.0101 PURPOSE.

The purpose of this chapter is to provide for the sanitary storage, collection and disposal of solid wastes and, thereby, to protect the citizens of this city from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid wastes.

3-4.0102 DEFINITIONS.

For use in this chapter the following terms are defined:

1. "Solid waste": shall mean 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 de-

fined by subsection one (1) of section three hundred twenty-one point one (321.1) of the Code.

2. "Garbage": shall mean all solid and semisolid, putrescible animal and vegetable wastes resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by products, and shall include all such substances from all public and private establishments and from all residences.

(I.D.R., 1973, page 295, Sec. 25.1 [5])

3. "Refuse": shall mean putrescible and nonputrescible wastes, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid wastes and sewage treatment wastes in dry or semi-solid form.

(I.D.R., 1973, page 295, Sec. 25.1 [15])

4. "Rubbish": shall mean all waste materials of nonputrescible to nature.

(I.D.R., 1973, page 269, Sec. 1.2 [46])

5. "Open burning": shall mean any burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack.

(I.D.R., 1973, page 295, Sec. 25.1 [10])

6. "Landscape waste": shall mean trees, tree trimmings, branches, stumps, brush, leaves and shrubbery.

(Ord. 391, 2004; I.D.R.,
1973, page 269, Sec. 1.2 [30])

7. "Back yard burning": shall mean the disposal of residential waste by open burning on the premises of the property where such waste is generated.

(I.D.R., 1973, page 268, Sec. 1.2 [10])

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

(I.D.R., 1973, page 269, Sec. 1.2 [44])

9. "Discard": shall mean to place, cause to be placed, throw, deposit or drop.

(Code of Iowa, 1975, Sec. 455B.83 [2])

10. "Litter": shall mean any garbage, rubbish, trash, refuse, waste materials or debris.

(Code of Iowa, 1975, Sec. 455B.95 [1])

11. "Open dumping": shall mean the depositing of solid wastes on the surface of the ground or into a body or stream of water.

(I.D.R., 1973, page 295, Sec. 25.1 [11])

12. "Rubble": shall mean stone, brick or similar inorganic material.

(I.D.R., 1973, page 295, Sec. 25.1 [18])

13. "Sanitary disposal project": shall mean all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the executive director.

(Code of Iowa, 1975, Sec. 455B.75 [3])

14. "Toxic and hazardous wastes": shall mean waste materials, including but not limited to poisons, pesticides, herbicides, acids, caustics, pathological wastes, flammable or explosive materials and similar harmful wastes which require special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(I.D.R., 1973, page 296, Sec. 25.1 [29])

15. "Owner": shall mean in addition to the record titleholder any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

16. "Yard wastes": shall mean leaves, tree or bush trimmings. There shall be no burning of grass and grass clippings is prohibited.

(Ord. 391, 2004)

17. "Sanitary disposal": shall mean a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(I.D.R., 1973, page 295, Sec. 25.1 [20])

18. "Executive director": shall mean the executive director of the state department of environmental quality or his designee.

(Code of Iowa, 1975, Sec. 455B.1 [2])

19. "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, in confinement, generates pressure through decomposition, heat, or other means. The following are examples of substances which, in sufficient quantity, may be hazardous: acids, alkalis, explosives, fertilizers, heavy metals such as chromium, arsenic, mercury, lead and cadmium, industrial chemicals, paint thinners, paints, pesticides, petroleum products, poisons, radioactive materials, sludges, and organic solvents. "Hazardous substances" 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 (49 CFR 172.101).

(Ord. 272, 1990)

3-4.0103 HEALTH HAZARD.

It shall be unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste, either in containers or not, that shall constitute a health or sanitation hazard.

3-4.0104 FIRE HAZARD.

It shall be unlawful for any person to permit to accumulate quantities of solid waste within or close to any building, unless the same is stored in containers in such a manner as not to create a fire hazard.

3-4.0105 BURNING PROHIBITED.

No person shall allow, cause or permit the burning of combustible materials, except that the following shall be permitted:

(I.D.R., 1973, page 272, Sec. 4.2 [1])

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.

(I.D.R., 1973, page 273, Sec. 4.2 [3a])

2. 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 environmental quality.

(I.D.R., 1973, page 273, Sec. 4.2 [3c])

3. 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 environmental quality.

(I.D.R., 1973, page 273, Sec. 4.2 [3e])

4. Training Fires. Fires set for the purpose of bona fide training of public or industrial employees in fire fighting methods, provided that the executive director of the state department of environmental quality receives notice in writing at least one week before such action commences.

(I.D.R., 1973, page 273, Sec. 4.2 [3g])

5. Licensed Incinerator. Burning of combustible material in an incinerator operated under a state permit and a license granted by the county board of health or any incinerator operated by or for the city.

6. 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 quarter mile from any building inhabited by other than the land owner or tenant conducting the open burning. Rubber tires shall not be used to ignite landscape waste. No "burn barrels" are allowed in the city for any type of burning in them, as it is too difficult to know what is being burned in them. All "burn barrels" or any type of burn container must be removed.

(Ord. 364, 1999)

7. Variance. Any person wishing to conduct open burning of materials not exempted herein may make application for a variance to the executive director of the state department of environmental quality.

3-4.0106 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, 1975, Sec. 455B.97)

3-4.0107 OPEN DUMPING PROHIBITED.

No person shall dump or deposit or permit the open dumping or depositing of any solid waste except rubble at any place other than a sanitary disposal project approved by the executive director of the state department of environmental quality.

(I.D.R., 1973, page 296, Sec. 26.4 [1])

3-4.0108 TOXIC AND HAZARDOUS WASTES.

1. Labeling. All containers used for the storage, collection or transportation of toxic or hazardous wastes shall be plainly marked so as to provide adequate notice of the contents thereof.

(I.D.R., 1973, page 296, Sec. 26.5 [1])

2. Vehicles and Containers. All vehicles and containers used for the storage, collection and transportation of toxic and hazardous wastes shall be so constructed that they can be loaded, moved and unloaded in a manner that does not create a danger to public health or safety.

(I.D.R., 1973, page 296, Sec. 26.5 [2d])

3. Disposal. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous wastes. Such materials shall be transported by the owner, responsible person or his agent, to a place of safe deposit or disposal as prescribed by the health officer or his authorized representative.

3-4.0109 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:

(I.D.R., 1973, page 296, Sec. 26.5 [1])

1. Container Specification.

A. Residential. Residential waste containers shall be of not less than 20 gallons nor more than 35 gallons in nominal capacity shall be leak proof, water proof and fitted with a fly tight lid which shall be kept in place except when depositing or removing the contents thereof. They shall have handles, bails or other suitable lifting devices or features and be of a type originally manufactured for the storage of residential wastes with tapered sides for easy emptying. They shall be of light weight and sturdy construction with the total weight of any individual containers and contents not exceeding 65 pounds Galvanized metal containers, rubber or fiberglass containers and

plastic containers which do not become brittle in cold weather may be used. Disposable containers with suitable frames or containers as approved by the city may also be used.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premise where excessive amounts of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the city.

2. Location of Containers. Residential solid waste containers shall be stored upon the residential premises. Commercial solid waste containers shall be stored upon private property, unless the owner shall have been granted written permission from the City to use public property for such purposes. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel.

3. Non-conforming Containers. Solid waste containers which are not approved will be collected together with their contents and disposed of after due notice to the owner.

3-4.0110 YARD WASTE STORAGE.

Yard wastes shall be stored in containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises, or upon adjacent public rights of way. Tree Limbs less than 4" in diameter and brush shall be securely tied in bundles not larger than 48" long and 18" in diameter when placed in storage containers. The weight of any individual bundle or container shall not exceed 65 pounds.

3-4.0111 SANITARY DISPOSAL REQUIRED.

It shall be the duty of each owner to provide for the sanitary disposal of all refuse accumulating on his premises before it becomes a nuisance. If such accumulation becomes a nuisance the city may proceed to abate the nuisances in accordance with the provisions of Article 2, Chapter 1, Title 3.

3-4.0112 PROHIBITED PRACTICES.

It shall be unlawful for any person to:

1. Unlawful use of Containers. Deposit refuse in any solid waste containers other than his own without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the city, or those of any other authorized waste collection service.

3. Unlawful Disposal. Dispose of refuse at any facility or location which is not on approved sanitary disposal project.

4. Unlawful Collection. Engage in the business of collecting, transporting, processing or disposing of refuse within the city without a valid permit therefore.

5. Sell or Use Incinerator. Sell or install any device intended for use as a garbage or refuse burner or incinerator, except when the intended user of such device has received a permit from the state and a license to operate such a device from the county board of health; or when the device will be operated for or by the city.

ARTICLE 2

COLLECTION AND TRANSPORTATION

3-4.0201 DEFINITIONS.

For use in this article the following terms are defined:

1. "Residential premises": shall mean a single family dwelling and any multiple family dwelling up to and including four (4) separate quarters. Garden type apartments and row type housing units shall be considered residential premises regardless of the total number of such apartments or units which may be included in a given housing development.

2. "Collectors": shall mean any person authorized by this article to gather solid waste from public and private places.

3. "Dwelling unit": shall mean any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

4. "Single family dwelling": shall mean a structure containing one dwelling unit only.

5. "Multiple family dwelling": shall mean a structure containing more than one dwelling unit.

6. "Property served": shall mean any property which is being used or occupied and is eligible to receive refuse collection and disposal service as provided herein.

3-4.0202 COLLECTION SERVICE.

The city shall provide for the collection of refuse from residential premises only. The owners or operators of commercial, industrial or institutional premises shall provide for the collection of refuse produced upon such premises.

3-4.0203 COLLECTION VEHICLES.

Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or refuse containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(I.D.R., 1973, page 296, Sec. 26.5 [2b])

3-4.0204 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 collec-

tor or transporter and returned to the vehicle or container and the area properly cleaned. Any violation of the loading and moving, spillage retrieval and/or cleaning requirements imposed by this section shall be unlawful, and the penalty for any violation of each separate requirement shall be a scheduled fine of twenty-five dollars (\$25.00).

(Ord. 275, Sec. 1, 1991:
I.D.R., 1973, page 296,
Sec. 26.5 [2c])

3-4.0205 FREQUENCY OF COLLECTION.

All refuse shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

3-4.0206 LOCATION OF CONTAINERS.

Containers for the storage of wastes awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other wastes placed at the curb line shall not be so placed in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

3-4.0207 BULKY RUBBISH.

Bulky rubbish which is too large or heavy to be collected in the normal manner of other refuse may be collected at the discretion of the collector upon request.

3-4.0208 TREE LIMBS AND BRUSH.

Tree limbs of less than four inches in diameter and brush will be collected provided they are placed at the curb or alley line, securely tied in bundles not more than 48 inches long or 18 inches in diameter when not in approved containers and weigh no more than 65 pounds.

3-4.0209 YARD WASTES.

Effective January 1, 1991, no yard waste will be picked up with the regular garbage pickup. This will be turned away from the landfill if found to be mixed in with the garbage in a garbage packer. Yard waste consists of such things as grass clippings, leaves, branches of trees or any type of flower, bush, shrub, etc., limbs, garden

stems or vines. These must be disposed of separately at the landfill to be added to a compost pile. The limbs and branches will be run through a "chipper" machine to make them small enough to be added to the pile. The compost pile is in a separate area at the landfill. The fee for taking yard waste to the landfill will be one dollar (\$1.00) per cubic yard for loose grass clippings, leaves, etc. The fee for taking brush will be three dollars (\$3.00) per cubic yard, as it must be run through the "chipper." If any yard waste is mixed in with a bag of garbage or garbage can, it will be left by the garbage hauler and not taken with the garbage. It will be the responsibility of the owner to dispose of the yard waste properly. The owners may take their own yard waste to the landfill and use regular plastic bags and pay the fee there, or purchase special paper bags from the City Hall to put their leaves and/or grass clippings in and the garbage hauler will pick these up on a special truck separate from the garbage pickup. The fee for these bags will be priced at one dollar (\$1.00) per bag, to be changed as the fees are increased at the landfill.

(Ord. 271-A, 1990)

3-4.0210 RIGHT OF ENTRY.

Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting refuse therefrom as required by this article, however solid waste collectors shall not enter dwelling units or other residential buildings.

3-4.0211 COLLECTOR'S LICENSE.

No person shall engage in the business of collecting, transporting, processing or disposing of solid waste other than his own within the city without first obtaining from the city an annual license for each vehicle or container to be used in accordance with the following:

1. Application. Application for a waste collector's license shall be made to the clerk and provide the following:

A. Name and Address. The full name and address of the applicant, and if a corporation, the names and addresses of the officers thereof.

B. Equipment. A complete and accurate listing of the number and type of collection and transportation equipment to be used.

C. Collection Program. A complete description of the frequency, routes and method of collection and transportation to be used.

D. Disposal. A statement as to the precise location and method of disposal or processing facilities to be used.

2. Insurance. No collectors license shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, shall file and maintain with the city evidence of satisfactory public liability insurance covering all operations of the applicant pertaining to such business and all equipment and vehicles to be operated in the conduct thereof in the following minimum amounts:

Bodily injury	\$250,000 per person \$500,000 per occurrence
Property damage	\$100,000 per occurrence
Maximum deductible	\$500 per occurrence

Each insurance policy required hereunder shall include as a part thereof provisions requiring the insurance carrier to notify the city of the expiration, cancellation or other termination of coverage not less than 10 days prior to the effective date of such action.

3. License Fee. A license fee in the amount of \$25.00 for each vehicle or transport container to be used in the city shall accompany the application. In the event the requested license is not granted, the fee paid shall be refunded by the clerk to the applicant.

4. License Issued. If the clerk upon investigation finds the application to be in order and determines that the applicant will collect, transport, process or dispose of refuse without hazard to the public health or damage to the environment and in conformity with law and ordinance

he shall issue the requested license to be effective for a period of one year from the date approved.

5. License Denied-Appeal. If the clerk refuses to issue a requested license he shall notify the applicant in writing of the reasons for such refusal and of his right of appeal to the council. The council shall consider any appeals at its next regular meeting and may affirm, reverse or modify the determination of the clerk.

6. License Number Displayed. All vehicles, mobile equipment or facilities operated by virtue of a license granted hereunder shall have prominently displayed thereon in a clearly visible manner the license number under which operated.

7. License Renewal. An annual license may be renewed simply upon payment of the required fee if operated in substantially the same manner as provided in the original application and by providing the clerk with a current listing of vehicles, equipment and facilities in use.

8. License Not Transferable. No license authorized by this article may be transferred to another person.

9. Owner May Transport. Nothing herein is to be construed so as to prevent the owner from transporting refuse accumulating upon premises owned, occupied or used by him, provided such refuse is disposed of properly in an approved sanitary disposal project.

10. Grading and Excavation Materials. Permits shall not be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities, however, all such material shall be conveyed in tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported shall spill upon the public rights of way.

3-4.0212 COLLECTION FEES.

The collection and disposal of refuse as provided by this article is declared to be a benefit to the property served or eligible to be served and there shall be levied

and collected fees therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 N.W. 2nd, 449)

1. Schedule of Fees. The fee and method of payment for refuse collection and disposal service used, or available shall be as established by the clerk and approved by resolution of the council.

ARTICLE 3 SOLID WASTE DISPOSAL

3-4.0301 DEFINITIONS.

For use in this article the following terms are defined:

1. "Processing facility": shall mean any incinerator, baler, shredder or similar facility or process employed to reduce the volume of, or change the characteristics of, solid waste prior to final disposal.

2. "Site": shall mean any location, place or tract of land used for collection, storage, conversion, utilization, incineration or burial of solid wastes.

3. "Scavenging": shall mean the collecting, picking up or gathering of discarded material no longer of value for its original purpose but which has value if reclaimed.

4. "Operator": shall mean the person or agency authorized to conduct disposal operations at a public sanitary landfill or licensed private landfill.

5. "Resident": shall mean in addition to any person residing in the city, any person occupying or using any commercial, industrial or institutional premises within the city.

3-4.0302 SANITARY DISPOSAL REQUIRED.

Solid wastes generated or produced within the city shall be disposed of at a sanitary disposal or processing facility approved by the city and by the Executive Director of the Iowa State Department of Environmental Quality.

(Code of Iowa, 1975, Sec. 455B.82)

3-4.0303 OPEN DUMPING PROHIBITED.

No person shall cause, allow or permit the disposal of solid wastes upon any place within the jurisdiction of the city owned or occupied by him unless such place has been designated by the city as a licensed sanitary landfill, public sanitary landfill or an approved processing facility.

(Code of Iowa, 1975, Sec. 455B.82)

3-4.0304 EXCEPTIONS.

Nothing in this article shall prohibit the filling, leveling or grading of land with earth, sand, ashes, cinders, slag, gravel, rock, demolition or construction rubble or similar inert wastes provided these materials are not contaminated or mixed with combustible, putrescible or other waste materials, nor to the disposal of animal and agricultural wastes on land used or operated for farming.

3-4.0305 TOXIC AND HAZARDOUS WASTES.

Toxic or hazardous wastes shall be disposed of only upon receipt of and in accordance with explicit instructions obtained from the Executive Director of the Iowa State Department of Environmental Quality.

(I.D.R., 1973, page 296, Sec. 26.4 [3])

3-4.0306 RADIOACTIVE MATERIALS.

Materials that are radioactive shall not be disposed of in a sanitary disposal project. Luminous timepieces are exempt.

(I.D.R., 1973, page 296, Sec. 26.4 [4])

3-4.0307 PUBLIC SANITARY LANDFILL DESIGNATED.

The sanitary landfill facilities operated by the Scott Area solid waste management commission are hereby designated as the official public sanitary landfill for the disposal of solid waste produced or originating within the city.

(Ord. 331 (part), 1996)

3-4.0308 PRIVATE SANITARY LANDFILL.

Any person may establish and operate a private sanitary landfill within the city for the disposal of his own

solid waste provided he shall first have applied for and received a license from the city designating his site as a licensed private sanitary landfill in accordance with the following:

1. Application. Application for a license to operate a private sanitary landfill shall be made in writing to the clerk and include the following information:

A. Name and Address. The full name and address of the owner and operator.

B. Location. The specific location of the site.

C. Nuisances. An agreement of the applicant to maintain sanitary manner so as to prohibit the creation or maintenance of a nuisance.

D. Rules and Regulations. Agreement to operate the landfill in accordance with all local, county, state or federal regulations now or hereafter adopted.

E. Attendant. Agreement to provide a responsible person who will be in constant attendance during all hours of active operation of the landfill.

F. Other Licenses or Permits. Attached to the application shall be a copy of any required federal, state, other local licenses or permits required for such operation.

G. Right of Entry. Agreement to permit access to the landfill site by any officer or governmental representative or agency who may have jurisdiction for the purpose of inspection.

2. Fee. An annual fee in the amount of \$300.00 for each location shall be paid to the clerk upon filing of an application. In the event the requested license is denied the clerk shall refund the fee deposited.

3. License Issued. The council shall review the application and if it is determined that the facts stated therein are true and that the proposed operation complies

with all other applicable laws, ordinances and rules the clerk shall issue the requested license which shall be effective for a period of one year.

4. Renewal. A license may be renewed for additional one year periods upon payment of the required fee if operated substantially in the same manner as provided in the original application and in compliance with law or ordinance.

5. Use Restricted. A licensed private sanitary landfill site shall be used for the exclusive purpose of disposing of the site operator's own waste and shall not be open to any segment of the general public nor to any other private source of waste.

6. Abatement of Violations. If any private sanitary landfill is found to be operated in a manner detrimental to the health or welfare of the public or in violation of any of the provisions of this article such violation may be abated in the manner as provided for the abatement of nuisances.

3-4.0309 LANDFILL OPERATION.

All public or private sanitary landfills within the jurisdiction of the city shall be operated in a sanitary, safe and nuisance free manner and in compliance with all local, county, state and federal laws and regulations including, but not limited to, the following:

1. Open Burning Restricted. Open burning shall be prohibited except when permitted by the rules of the Iowa Air Quality Commission. Any burning to be conducted by a sanitary disposal project shall be at a location separate and distinct from the sanitary landfill.

(I.D.R., 1973, page 298, Sec. 27.1 [4i1])

2. Scavenging Prohibited. Scavenging shall be prohibited. Any salvaging to be permitted at the landfill site must first be approved by state and local officials.

(I.D.R., 1973, page 298, Sec. 27.1 [4i14])

3. Attendant on Duty. An attendant shall be on duty at the landfill site at all times while it is open for public use.

(I.D.R., 1973, page 298, Sec. 27.1 [4i15])

4. Fence Required. The landfill site shall be fenced to control access and a gate shall be provided at the entrance and kept locked when an attendant is not on duty.

(I.D.R., 1973, page 298, Sec. 27.1 [4i16])

5. Rules Posted. A permanent sign shall be posted at the site entrance identifying the hours and days the landfill is open, specifying the penalty for unauthorized dumping, identifying the location, if any, which has been designated for disposal of toxic and hazardous wastes and providing other pertinent information.

(I.D.R., 1973, page 298, Sec. 27.1 [4i17])

6. Materials Excluded. At the discretion of the operator certain materials may be excluded from those solid wastes which may be deposited at any sanitary landfill. These excluded materials may include:

A. Junk automobiles and similar bulky objects which may require special processing prior to disposal.

B. Trees and tree limbs, unless they have been cut into pieces not exceeding ten (10) feet in length.

C. Burning materials or materials containing hot or live coals.

ARTICLE 4

SCOTT AREA SOLID WASTE MANAGEMENT COMMISSION

3-4.0401 AGREEMENT ADOPTED.

The city does hereby adopt, approve and adopt verbatim an ordinance entitled "Scott Area solid waste management Commission" and does hereby authorize the mayor and the city clerk to execute the original thereof on behalf of the city, and which ordinance reads as follows:

Section 1. The following terms as used in this Agreement shall, unless the context otherwise requires, having the following meanings:

A. "Commission" is the Scott Area solid waste management Commission.

B. "Committee" is the Technical Advisory Committee.

C. "Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, Political Subdivision, or any other legal entity, or their legal representative, agent or assigns.

D. "Political Subdivision" is any city, village, incorporated town, or county.

E. "Qualified Political Subdivision" is any Political Subdivision within Scott County.

(Ord. 331 (part), 1996)

Section 2. Only qualified political subdivisions are eligible to be parties to this Agreement. There is created hereby a regulatory Commission to be known as the Scott Area solid waste management Commission. The Commission shall consist of one representative with alternate from each of the Qualified Political Subdivisions which is a party to this Agreement, such representative with named alternate to be appointed by the Qualified Political Subdivision which he represents for a term of two years. Such appointments shall be made within thirty (30) days after this Agreement becomes effective, or if it is in effect, then within thirty (30) days after such Qualified Political Subdivision becomes a party to it. The terms of all representatives shall continue until their respective successors have been duly appointed and qualified. Vacancies shall be filled for the remainder of any term in the same manner as the original appointment. A Qualified Political Subdivision may remove its representative and must do so on its rescission of the Agreement. The members of the Commission shall receive no compensation for their services but shall be reimbursed for expenses necessarily incurred in the performance of their duties.

Voting rights of Qualified Political Subdivisions through their representative (or his alternate) on the Board shall be constituted and limited as follows:

A. A small town mayor serves for all cities and villages. He is elected the first part of each year by the other small town mayors.

B. The Commission shall hold at least six (6) regular meetings each calendar year at a place and time to be fixed by the Commission. The commission shall select at its first meeting one of its voting members to serve as chairman and another of its voting members to serve as vice-chairman and a third to serve as secretary-treasurer. At the first regular meeting in each calendar thereafter the chairman and vice-chairman and secretary-treasurer for the ensuing year shall be elected from the voting membership. Special meetings may be called by the Chairman or by one fourth (1/4) of the voting members of the Commission. One third (1/3) of the voting members of the Commission constituting 50% of the total votes shall constitute a quorum.

(Ord. 333, 1996; Ord. 331 (part),
1996; Ord. 232, Sec. 1, 1984)

Section 3. There is created an advisory agency to be known as the Technical Advisory Committee. The Committee shall consist of: One (1) Davenport, Iowa Alderman; Bettendorf, Iowa Mayor; Davenport, Iowa Mayor; Chairman of the Scott County Supervisors Board; One elected "small town" Mayor to represent the "small towns". This may change by Resolution at some time in the future. The term of each member shall continue until a qualified successor has been appointed. Members of the Committee shall receive no compensation for their services but shall be reimbursed by the Commission for expenses necessarily incurred in the performance of their duties. The Committee shall hold regular meetings each calendar year, the number, place and time to be fixed by the Commission. At its first meeting, and at the first meeting of each calendar year thereafter the Committee shall select one of its members to serve as chairman. Special meeting may be called by the chairman or by three (3) members of the Committee upon delivery of

written notice to each member of the Committee. Fifty percent (50%) of the members of the Commission shall constitute a quorum.

(Ord. 332, 1996; Ord. 331 (part), 1996)

Section 4. The purpose of this agreement is to provide cities, towns, and counties with sanitary disposal projects for the final disposition of solid wastes by their residents and, thereby, protect the citizens of this state from such hazards to their health, safety and welfare that result from the uncontrolled disposal of solid wastes. To accomplish these objectives, responsibilities, and authority are vested as follows:

A. Scott Area Solid Waste Management Commission.

1. Employ and compensate, within funds available therefor such full-time or part-time employees, consultants and technical assistants as may be necessary to carry out the provisions of this Agreement and prescribe their duties and responsibilities.

2. Prepare and develop general policies for the final disposition of all solid waste in Scott County, Iowa.

3. Adopt and promulgate reasonable rules and regulations consistent with the general intent and purposes of this Agreement in accordance with the provisions of Section 7 hereof.

4. The rules and regulations referred to in subsection (3) of this Section shall have full force and effect within the territory over which the parties to this Agreement have legal jurisdiction relative to the control of solid waste disposal.

5. Cause to be instituted in a court of competent jurisdiction legal proceedings to compel compliance with any order or determination entered by the Commission.

6. Provide such technical, operating or other services including the necessary labor and other facilities as may be required for the purpose of carrying out the provisions of this Agreement, from funds available for

purposes of this Agreement. The basic personnel necessary to carry out the provisions of this Agreement, shall be personnel employed by the Commission; however, the Commission may by agreement secure such services as it may deem necessary from any other agency or consulting firm and may arrange for the compensation for such services.

7. Accept, receive and administer grants or other funds or gifts for the purpose of carrying out any of the functions of this Agreement; apply, accept, receive and receipt for Federal and State monies available to the Commission. The Commission is authorized to promulgate such rules mod regulations or enter into contracts as it may deem necessary for carrying out the provisions of this section.

8. Budget and receive duly appropriated monies for expenditures to carry out the provisions and purposes of this Agreement.

B. Technical Advisory Committee.

1. Provide technical guidance and counsel to the Commission in matters relating to standards, specific process problems or other items requiring technical or engineering considerations.

2. Advise the Commission and make recommendations regarding proposed rules and regulations and their practical applications to Sanitary Landfill Operations.

3. Make recommendations to the Commission regarding applications for variances where economic feasibility and technical problems are involved.

4. Act as technical consultants to the Commission in developing plans and programs for carrying out the provisions of this Agreement.

(Ord. 331 (part), 1996)

Section 5. Any rule or regulation or amendment or repeal thereof shall not be deemed adopted or in force and effect until it shall have been approved by at least two-

thirds (2/3) of the total votes authorized under Section 3(a), (b), and (c) hereof.

Section 6. The violation of any rule or regulation of the Commission is hereby declared a misdemeanor.

Section 7. The Commission shall establish its fiscal year at its first regular meeting and prepare an appropriate annual fiscal budget for the first fiscal year and each year thereafter. The portion of the cost of each such budget which the Commission determines must be borne locally, shall be borne proportionally by the Qualified Political Subdivisions which become and are parties to this Agreement in the same ratio as their population bears to the total population of Scott County. The financial accounts of the Commission may be audited at the request of voting member at the end of each fiscal year by an independent certified public accountant, or the State Auditor.

Section 8. The Qualified Political Subdivisions which become and are parties to the Agreement have done so in recognition of the authority granted them to do so in the statutes of the State of Iowa and by so doing have delegated their respective powers to control solid waste disposal in their own jurisdictions to the Commission established by this Agreement, and such delegation shall continue for any such Political Subdivision until it rescinds its participation hereunder by appropriate ordinance. Such rescission may be affected on any anniversary date of the signatory's signing of this Agreement after the fourth such date and not otherwise, except that rescission based on proof of inability to contribute assessed pro rata share of the finding of the Board's operation or disagreement with any amendment hereof may be effected at any time. Qualified Political Subdivisions desiring to become parties to this Agreement shall pass and approve an Ordinance which accepts and incorporates verbatim the language of this Agreement.

Upon so doing the executive officer of such Qualified Political Subdivision shall sign the original of this Agreement and such act shall then constitute such Qualified Political Subdivision a party to this Agreement except that this Agreement shall not become effective until

it has been signed initially by the executive officers, Political Subdivisions of Davenport, Bettendorf, and Scott County.

Section 9. Amendments to this Agreement may be effected by the Board by a vote of two-thirds (2/3) of the total votes authorized under Section 3(a), (b), and (c) hereof.

Section 10. This Ordinance shall be in full force and effect after its passage and publication as provided by law.

(Ord. II-1)

ARTICLE 5
RECYCLING AND RECYCLABLE MATERIALS

3-4.0501 RECYCLABLE MATERIALS DEFINED.

"Recyclable materials" means cleaned out and flattened HDPE and PETE plastic containers without lids, clean glass jars and bottles without lids, cleaned and crushed aluminum cans and tin cans, and cardboard and newspapers with slick advertising materials removed which shall be bundled and tied and placed on top of or adjacent to the recycling container. A list of recyclable plastics will be given out with each recycling container at the time of purchase.

(Ord. 287 (part), 1991)

3-4.0502 RECYCLING CONTAINER DEFINED.

"Recycling container" means a red eighteen (18) gallon container with a tight fitting lid, designated by the city as the approved recycling container.

(Ord. 287 (part), 1991)

3-4.0503 RECYCLING CONTAINER-REQUIRED.

Each residence within the city limits is required to purchase a recycling container at City Hall, on or before December 31, 1992. The city shall sell the containers to residents for the same price the city is charged by the distributor, which price is currently nine dollars (\$9.00) per container.

(Ord. 287 (part), 1991)

3-4.0504 RECYCLING REQUIRED-METHOD OF USE-COLLECTION SCHEDULE.

1. Recyclable materials shall be separated by the owner or occupant from all other refuse accumulated on the premises.

2. Recyclable materials shall be placed in a recycling container for pickup.

3. Recyclable materials shall be collected from the recycling containers on a weekly basis, at the same time as residential garbage pickup.

4. The recycling container shall be placed in the same area where garbage containers are placed for weekly pickup.

5. For the period from January 1, 1992, through December 31, 1992, the recycling efforts described in this article shall be voluntary. Commencing on January 1, 1993, recyclable materials shall not be disposed of by the sanitary landfill method, and on such date, mandatory recycling as specified in this chapter will be required of all residents of the city.

(Ord. 287 (part), 1991)

3-4.0505 FEE.

Each residence within the city limits will be charged two dollars (\$2.00) per month for recycling-related expenses incurred by the city. If the residence receives a monthly utility billing from the city, such two dollars (\$2.00) per month charge shall be added to the regular utility billing. The price of the recycling container may likewise be added to the utility bill of the residence. Each residence which does not have a utility billing from the city will be charged a once-per-year fee of twenty four dollars (\$24.00). If any charge for this service shall not be paid by the day of the month in which it shall be come due and payable, a charge of three percent (3%) of the amount of the bill shall be added thereto and collected therewith.

(Ord. 417, 2007, Ord. 287 (part), 1991)

3-4.0506 RIGHT TO REFUSE COLLECTION - LATE PAYMENT.

The city or its contractor may refuse to collect any garbage or refuse which does not comply with the provisions of this article, including but not limited to, failure to pay any amount of the recycling expense billed to the residence, and failure to segregate and properly dispose of recyclable materials with the January 1, 1992, billing. This twelve dollars (\$12.00) will be due no later than February 15, 1992, and if not paid, the city will refuse to collect any garbage or refuse after February 15, 1992. The monthly utility bills will be treated in the same manner as the present, due the twentieth of each month, with service being discontinued on the date noted on the second late notice. Recycling will become mandatory on January 1, 1993.

(Ord. 287 (part), 1991)

3-4.0507 DIRECTOR OF PUBLIC WORKS TO ENFORCE.

Additional rules and regulations not inconsistent with the terms and provisions of this article may be promulgated and enforced by the director of public works with the approval of the city council.

(Ord. 287 (part), 1991)

CHAPTER 5 - CEMETERY

3-5.01 DEFINITION.

The term "cemetery" shall mean the Buffalo Municipal Cemetery, which is a municipal cemetery under the provisions of Sections 566.14 to 566.18 of the 1975 Code of Iowa.

3-5.02 CEMETERY SUPERINTENDENT IS APPOINTED.

The city administrator, with the approval of the council, shall appoint a cemetery superintendent who shall operate the cemetery in accordance with the rules and regulations therefore and under the direction of the city administrator.

(Code of Iowa, 1975, Sec. 372.13 [4])

3-5.03 DUTIES OF CEMETERY SUPERINTENDENT.

The duties of the cemetery superintendent shall be as follows:

(Code of Iowa, 1975, Sec. 372.13 [4])

1. Supervise Openings. He shall supervise the opening of all graves and be present at every interment in the cemetery.

2. Maintenance. He shall be responsible for the maintenance of the cemetery buildings, grounds and equipment and shall make a monthly report of the cemetery operation to the city administrator.

3-5.04 RECORDS.

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

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

3-5.05 SALE OF LOTS.

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

(Code of Iowa, 1975, Sec. 566.26)

3-5.06 FEES, CHARGES AND PAYMENTS.

The payment of fees and charges shall be made at the office of the City Clerk in the city hall where re-

ceipts will be issued for all amounts paid in accordance with the following schedule.

1. Charges for plot purchase

- a. Residents or former residents of either the City of Buffalo or Buffalo Township shall be charged \$350 for two graves (\$250 for perpetual care and \$100 for the graves) and \$700 (\$500/\$200) for four graves. All other persons shall be charged \$1,800 (\$1300/\$500) for two graves and \$3,600 (\$2,600/\$1,000) for four graves
- b. Residents or former residents of either the City of Buffalo or Buffalo Township shall be charged \$100 for cremated remains to be placed in a family plot, in addition to normal burials allowed in a family plot.
- c. Residents or former residents of either the City of Buffalo or Buffalo Township shall be charged \$100 for a two-foot by two-foot infant burial in a family plot, and \$220 (\$160 for perpetual care and \$60 for the plot) for a two-foot by two-foot plot to be purchased in the infant section of the cemetery.

2. Charges for grave opening and closing

- a. Residents or former residents of either the City of Buffalo or Buffalo Township shall be charged \$425 for opening and closing per grave. All other persons shall pay an opening and closing fee of \$745 per grave.
- b. The fee for opening and closing for cremated remains will be \$100.
- c. The fee for opening and closing each infant grave shall be \$225, regardless if burial is in a family plot or a purchased plot in the infant section.(Ord. 409 2006)

3-5.07 PERPETUAL CARE.

The term "perpetual care" shall be construed to mean the obligation which the city assumes to each year expend the net annual income of the perpetual care endowment set aside for the lot in furnishing such care as mowing grass, raking and cleaning the lot and adjacent alleys, filling of sunken graves and keeping monumental work in a vertical

position. Where the income is sufficient it may be used in the perpetual care of avenues, alleys, fences, buildings and grounds in general. Expenditures shall be made at the discretion and under the direction of the council and the city shall not be bound to make any separate investment of the sum of money set aside as perpetual care, but the same shall be added to the perpetual care fund of the city and the proceeds therefrom used by the city in the manner heretofore provided.

(Code of Iowa, 1975, Sec. 566.14)

3-5.08 PERPETUAL CARE ON LOT SALES.

Future lot sales in the cemetery shall be made with the perpetual care provided for, at the rates specified in the rules and regulations as adopted by the council, under and by virtue of the terms of this chapter.

(Code of Iowa, 1975, Sec. 566.16)

3-5.09 CEMETERY LOTS WITHOUT PERPETUAL CARE.

Owners of lots or other interested persons may secure perpetual care on lots or parts of lots in the older portions of the cemetery not having perpetual care by the payment to the city of the perpetual care charges at the rates specified in the rules and regulations.

3-5.10 ANNUAL CARE.

An annual care charge as specified in the rules and regulations shall be made by the city on those lots in the older portions of the cemetery which are not at present under perpetual or endowed care. The city reserves the right to refuse to furnish maintenance service, or to permit the erection of any monumental work on those lots not under perpetual or endowed care or when the annual care on such lot has not been paid in advance.

3-5.11 RULES AND REGULATIONS.

There shall be no burials on Sundays or holidays. There shall also be no burials after 3:00 pm on weekdays. This includes the internment of cremated remains. The roads within the cemetery are only to be used for normal traffic associated with cemetery use and are not to be used for any other purpose. (Ord. 409 2006)

3-5.12 TRESPASSING OR VANDALISM IN CEMETERY.

Any person who shall trespass upon any cemetery under the jurisdiction of the city by destroying, injuring or defacing any grave, vault, tombstone, or monument, or any building, fence, tree, shrub, flower, or anything in or belonging to said cemetery shall be guilty of a misdemeanor and shall be liable for any and all damage.

3-5.13 LOT SIZE.

The size of each burial lot in the first addition to the cemetery is established as 10' 0" X 16' - 0". The head of the grave is to be parallel with a line 2' - 0" from the west line of the lot.

3-5.14 VAULTS REQUIRED.

Upon the final reading and passage of the ordinance codified in this section, vaults will be required with all burials in the Buffalo Cemetery.

(Ord. 208, Sec. 1, 1982)

3-5.15 RESTRICTIONS ON HEADSTONES.

All cemetery lots purchased in the new part of the cemetery, which are the two acres on the south side, shall be required to install only flat style headstones, level with the surrounding area, so that they shall not interfere with normal grass cutting operations. Anyone purchasing lots in the remainder of the cemetery may choose, if they wish, a flat headstone or the upright type headstone. All burials will still require a cement vault in the burial with the casket enclosed, as is required at this time.

(Ord. 263, 1989)

3-5.16 GLASS FLOWER CONTAINERS - PLANTING OF FLOWERS.

No glass of any type, whether it be vases, jars, bottles, etc., will be allowed on or near the graves. No planting of flowers, shrubs, trees, etc. will be allowed to be planted on or near the graves. No type of fence or border material will be allowed to be placed on or near the graves. All decorative flowers or decorations should be placed as close as possible near or on the headstones to allow more accessibility to keep the grass mowed and

trimmed in a timely manner. All violations will be removed from the graves.

(Ord. 303, 1994)

TITLE IV - EDUCATION AND CULTURE

(Reserved For Future Use)

TITLE V - LEISURE TIME OPPORTUNITIES CHAPTER 1 - PARKS

ARTICLE 1 PARK COMMISSION

5-1.0101 PARK COMMISSION.

There shall be a board of park commissioners for the city consisting of five (5) citizens of legal age.

(Code of Iowa, 1975, Sec. 392.1)

5-1.0102 APPOINTMENT AND TERM.

This board shall be appointed on an annual basis at the regularly scheduled January city council meeting.

(Ord. 368 (part), 2000: Code of Iowa, 1975, Sec. 392.1)

5-1.0103 ORGANIZATION.

At the January meeting of this board they shall elect/appoint one of its members as chairperson.

(Ord. 368 (part), 2000: Code of Iowa, 1975, Sec. 392.1)

5-1.0104 JURISDICTION AND AUTHORITY.

The board shall have exclusive control of all parks and pleasure grounds owned by the city and set apart for like purposes within or without the city. All ordinances of the city shall be in full force and effect in and over the territory occupied by such parks.

(Code of Iowa, 1975, Sec. 392.1)

5-1.0105 RULES AND REGULATIONS.

The board shall have power to make rules and regulations for the use of park or other facilities under its

control, such rules shall be posted on the facility or otherwise publicized in a manner to provide adequate notice to the public.

(Code of Iowa, 1975, Sec. 392.1)

5-1.0106 PENALTIES.

Any person who violates a board rule or regulation which has been approved by the council and adopted by ordinance may be subjected to the penalties provided for in the ordinance adopting the rule or regulation.

(Code of Iowa, 1975, Sec. 392.1)

ARTICLE 2

PARK RULES AND REGULATIONS

5-1.0201 RULES AND REGULATIONS.

The following rules and regulations shall govern the parks and playgrounds in the city.

(Code of Iowa, 1975, Sec. 392.1)

1. Vehicles and Animals. It shall be unlawful for any person to drive or propel any vehicle, drive any horse or any other animal through any park, except along or upon park drives, or to drive or propel any heavily laden vehicle upon the park drive or ways without the written consent of the commission.

2. Speed Limit. It shall be unlawful for any person to drive or propel over or along any park drive any vehicle, horse or other animal, or bicycle at a greater speed than ten (10) miles per hour.

3. Parking of Vehicles. It shall be unlawful for any person to repair, wash or polish motor vehicles, motorcycles, or other vehicles in any park or public grounds or to park any motor vehicle, motorcycle, or other vehicle except between the hours of daylight and 10:30 P.M. where parking spaces are provided, but no parking will be permitted whatsoever between the hours of 10:30 P.M. and daylight.

4. Excavation and Advertisement. It shall be unlawful for any person to make any excavation for any purpose

upon the properties under control of the park commission or to place or erect any structure, sign, bulletin board, post, pole or advertising device of any kind whatsoever in any park, or to attach any notice, bill poster, sign wire, rod or cord to any tree, fence, railing, post or structure within a park, without first securing permission from the commission.

5. Destruction of Property. It shall be unlawful for any person to remove, destroy, mutilate or deface any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench, tree, shrub, fern, plant, flower, or other property in any park or playground.

6. Animals at Large: Prohibited. It shall be unlawful for any person to allow or permit any dog or animal to run at large in the park.

7. Fireworks and Firearms: Prohibited. It shall be unlawful for any person to shoot, fire or explode any firearms, fireworks, firecrackers, or explosives of any kind or to carry any firearms in any park or playground, except upon written permission of the commission.

8. Business Prohibited. It shall be unlawful for any person to be or act as or ply the vocation of a solicitor, agent, vagrant, peddler, fakir, mendicant, beggar, strolling musician, organ grinder, exhorter, showman or blackboot in any park or playground.

9. Public Meetings. It shall be unlawful for any person to hold any public meeting or gathering, or to make any public speech in any park or playground except upon written permission of the commission.

10. Disorderly Conduct. It shall be unlawful for any person to conduct or carry on any boisterous or insulting language, or to be guilty of any disorderly, lewd or lascivious conduct of any kind in any park or playground.

11. Restrictions Concerning Alcoholic Beverages.

A. Except under the circumstances authorized herein, it shall be unlawful for any person to bring into,

possess or consume alcoholic beverages in any city park or playground or any building or shelter under the control of the park commission. The city council may allow the sale of alcoholic beverages during the annual Fourth of July celebration. The sale of alcoholic beverages during the annual Fourth of July celebration shall be by a civic or non-profit organization. The rules and regulations regarding the special authorization to sell alcoholic beverages during the Fourth of July celebration shall be determined by the city council on a case by case basis.

B. On a case by case basis for special events the city council may allow individuals to bring coolers containing alcoholic beverages into city parks, and to consume such beverages. The following conditions together with any other imposed by the city council on a case by case basis shall apply:

(1) Alcoholic beverages in glass containers shall not be allowed.

(2) Alcoholic beverages shall not be possessed or consumed on or near ball fields, including bleachers surrounding ball fields, when juvenile ball teams are playing, practicing or gathering.

(3) Alcoholic beverages shall not be possessed or consumed on or among carnival rides, games and shows, including, but not limited to any carnival midway.

(4) Alcoholic beverages shall not be possessed or consumed on or about playground equipment.

(5) In no case shall alcoholic beverages be possessed or consumed prior to the beginning of any special event, or later than 10:30 p.m. or the hour at which the special event is to end whichever first occurs.

(6) All rules and regulations set down by the state of Iowa, the city of Buffalo, and the Alcoholic Beverages Division of the Iowa Commerce Department shall be complied with.

(7) Individuals possessing or consuming alcoholic beverages agree to defend, indemnify and hold the city of Buffalo, its officers, agents and employees, harmless from any and all claims, demands or suits for bodily injury, including death, and property damage that may result or is alleged to arise out of the possession or consumption of alcoholic beverages in any city park or playground or any building or shelter under the control of the park commission.

C. It shall be unlawful for any intoxicated person to enter or remain within any park, playground or building or shelter under the control of the park commission. Such persons may be ejected by the police department.

D. It shall be unlawful for any person to violate any of the provisions of this section or any further conditions imposed by the city council. Alcoholic beverages possessed or consumed in violation of this section or in violation of any further conditions imposed by the council may be seized by the city of Buffalo and appropriately disposed of if the person possessing or consuming the same refuses to remove the beverages, upon being ordered to do so.

12. Sports and Games Limited. It shall be unlawful for any person to play football, golf, cricket, baseball or other like games in any park except in places designated for such purposes; it shall be unlawful for any person not participating in any games to interfere with any part of the sport.

13. Littering. It shall be unlawful for any person to drop or deposit any materials whatsoever upon any park or public grounds including parking facilities or drives therein without first having written consent of the park commission.

14. Clean-up After Usage. The public is requested to aid the park authorities in keeping the parks free from all waste paper, boxes, packages etc. Waste containers will be provided to receive all such debris. Any organization scheduling events as per Section 5-1.0105 shall be responsible for the condition of the park upon the ending

of such event. Any necessary clean up or repairs will be charged to this organization.

15. Scheduling of Facilities. All buildings and activities of a large nature shall be scheduled through the commission. Only non-profit organizations may have the use of any of the buildings for the sale of refreshments. All organizations must make application to the commission for each day they wish to use the facilities.

(Ord. 401, 2005; Ord. 266, Sec. 1, 1990)

ARTICLE 3
BUFFALO RIVER PARK RULES AND REGULATIONS

5-1.0301 ESTABLISHED.

The city hereby establishes a new city park, to be known as the "Buffalo River Park."

(Ord. 276, Sec. 1, 1991)

5-1.0302 LOCATION.

Buffalo River Park shall be located on the land owned by the city between Highway 22 and the Mississippi River, within the city limits of the city. From time to time the city council may expand, contract or otherwise modify the boundaries of Buffalo River Park.

(Ord. 276, Sec. 2, 1991)

5-1.0303 APPLICATION.

The terms of this chapter shall apply only to the Buffalo River Park, and not to any other park or facility owned or operated by the city.

(Ord. 276, Sec. 3, 1991)

5-1.0304 GENERAL PARK PROVISIONS TO APPLY-EXCEPTIONS.

With the exception of the provisions in this chapter concerning overnight camping and the allowance of canned alcoholic beverages, all existing and future city ordinances which generally govern city parks and facilities shall apply to the Buffalo River Park.

(Ord. 276, Sec. 4, 1991)

5-1.0305 OVERNIGHT CAMPING-PERMITTED.

Overnight camping shall be allowed in Buffalo River Park, subject to the rules and regulations pursuant to the Buffalo city Code.

1. All overnight campers shall register with the Police Department. Registration requires proof of identification of all campers, twenty-five dollars (\$25.00) refundable clean up deposit, and appropriate rental fees.

Rental fees as followed:

Ten dollars (\$10.00) per night per tent (up to four adults).

Each additional adult is two dollar (\$2.00).

Each additional child is one dollar (\$1.00).

Maximum six (6) persons per tent.

2. Campers are allowed to stay for fourteen days out of a thirty day period. Parking on the south side of the tracks at the boat dock is designated for overnight beach campers.

3. Overnight boat campers are permitted to stay fourteen days out of a thirty day period with no deposit of rental fees. Boats are not permitted to tie directly to trees and are not permitted to stay tied overnight at the boat docks. (Ord. 454,2011; Ord. 276, Sec. 5, 1991)

5-1.0306 OVERNIGHT CAMPING-GEAR REQUIRED.

All persons camping overnight in Buffalo River Park shall be equipped with tents and other gear suitable for overnight camping.

(Ord. 276, Sec. 6, 1991)

5-1.0307 QUIET PERIOD.

5-1.0307 QUIET PERIOD.

The hours of ten P.M. to six A.M. shall be designated as a quiet period in Buffalo River Park. During such quiet period, overnight campers shall not engage in or produce any excessive noise and no visitors are allowed. "Excessive noise" is defined to include, but is not limited to: any loud or unusual noise, by music, radios or any type of speaking devices or noise makers, blowing horns or ringing bells, any type of machine, mechanical device or vehicle,

screaming or fighting, or any other type of noise which is reasonably likely to disturb other overnight campers and/or any other persons nearby. Any violation of this section shall be unlawful, and the penalty for such violations shall be a scheduled fine of one hundred dollars (\$100.00).

(Ord. 453 2011; Ord. 363, 1999; Ord. 276, Sec. 7, 1991)

5-1.0308 ALCOHOLIC BEVERAGES.

Persons may bring individual serving sized aluminum or plastic cans containing alcoholic beverages into Buffalo River Park and may consume such beverages without obtaining prior permission from the city council. No kegs of any type will be allowed at any time. All other city ordinances which generally govern the possession and consumption of alcoholic beverages in city parks and facilities, including, but not limited to City Code, Section 5-1.0201(11), shall fully apply to the possession and consumption of alcoholic beverages in Buffalo River Park. Any violation of the alcoholic beverage container provision in this section shall be unlawful, and the penalty for such violations shall be a scheduled fine of one hundred dollars (\$100.00).

(Ord. 363, 1999; Ord. 294, 1992; Ord. 276, Sec. 8, 1991)

5-1.0309 LITTER.

Persons shall not leave any litter in the Buffalo River Park. All litter shall be removed that a person has brought into the park. Persons leaving any litter in the park upon leaving shall be unlawful, and the penalty for such violation shall be a scheduled fine of one hundred dollars (\$100.00), per this section.

(Ord. 363, 1999; Ord. 276, Sec. 9, 1991)

5-1.0310 GLASS CONTAINERS.

No glass food or beverage containers shall be brought into the Buffalo River Park or possessed in the Buffalo River Park. Any violation of this section shall be unlawful, and the penalty for such violation shall be a scheduled fine of one hundred dollars (\$100.00).

(Ord. 363, 1999; Ord. 276, Sec. 10, 1991)

5-1.0311 SWIMMING.

The city shall post at Buffalo Riverside Park signage which informs persons swimming, entering the Mississippi River from Buffalo Riverside Park, that they are swimming at their own risk and that the Mississippi River contains dangerous currents. Such signage shall be placed at intervals such that a person standing by one sign would see further down the beach that there is an additional sign.

(Ord. 363, 1999)

CHAPTER 2 - COMMUNITY CENTER COMMISSION

5-2.0101 COMMISSION ESTABLISHED.

There shall be a city community center commission for the city consisting of seven (7) members who shall be of legal age and who shall be residents of the city or an area within twenty-five (25) miles from the city limits of Buffalo, Iowa.

(Ord. 434 2010, Ord. 405 § 1, 2006: Ord. 306, 1995: Ord. 218 (part), 1983)

5-2.0102 APPOINTMENT AND TERM-VACANCIES.

Members of the commission shall be appointed by the mayor, subject to approval by the city council. The term of office for commission members shall be three (3) years, and one-third (1/3) of said terms shall expire annually. A successor to any vacancy occurring on the commission shall be appointed for the remainder of the term in the same manner as the original appointee.

(Ord. 218 (part), 1983)

5-2.0103 COMPENSATION.

Members of the commission shall serve without compensation, except for reimbursement of actual expenses incurred, subject to approval by the council.

(Ord. 218 (part), 1983)

5-2.0104 ORGANIZATION.

Commission members shall elect from the membership a five (5) person executive board, consisting of a chairman, vice-chairman, alternate vice-chairman, secretary-treasurer, and an individual who is a chairman of one (1) of the permanent committees. There shall be four (4) per-

manent committees, with respective responsibilities for (1) the community center building and grounds, (2) community center programs and activities, (3) the bar, and (4) the kitchen. Membership and size of the permanent committees shall be determined by the executive board. The executive board may, from time to time, establish and abolish additional, temporary committees as needs for the same may arise. The membership of each individual committee shall be responsible for the selection of its own chairman.

(Ord. 218 (part), 1983)

5-2.0105 POWERS AND DUTIES.

1. Ultimate authority over the community center building and property rests with the city council. The commission, through its appropriate officers, committees, and members shall have responsibility for the day-to-day operation, administration, management, and maintenance of the community center building and property, and the programs and activities conducted in association therewith.

2. The executive board, or its designee, shall act as liaison between the commission and the mayor and council, and shall regularly apprise, consult with, and make recommendations to the council regarding all matters involving the community center.

3. The executive board shall be responsible for establishing and maintaining appropriate procedures for the management and handling of funds, and for insuring compliance therewith. The commission secretary-treasurer shall provide to the council at its first meeting each month a written financial statement detailing the receipts, disbursements, and current balance of all moneys under commission control. Any expenditure of more than one thousand five hundred dollars (\$1,500.00) for any one (1) item must receive prior approval of the council.

4. The commission shall establish written rules and regulations governing utilization of the community center by the public. Said rules and regulations shall be subject to council approval.

5. The commission shall keep detailed minutes of all commission meetings, and shall post the same at such locations as are designated by the council.

6. The commission shall have authority to adopt such rules as it deems necessary for purposes of governing its procedure, scheduling and conduct of meetings, election and terms of executive board members, and other similar internal matters.

(Ord. 296, Sec. 1, 1992; Ord. 219(part), 1983)

TITLE VI - COMMUNITY DEVELOPMENT AND ENVIRONMENT
CHAPTER 1 - WATER SERVICE

ARTICLE 1
CONNECTIONS TO PUBLIC WATER SYSTEM

6-1.0101 DEFINITIONS.

For use in this chapter the following terms are defined:

1. "Water system" or "water works": shall mean all public facilities for securing, collecting, storing, pumping, treating and distributing water.

2. "Superintendent": shall mean the superintendent of the city water system or his duly authorized assistant, agent or representative.

3. "Water main": shall mean a water supply pipe provided for public or community use.

(Iowa Departmental Rules, 1973, P. 345, Sec. 21.1 [120])

4. "Water service pipe": shall mean the pipe from the water main to the building served.

(Iowa Departmental Rules, 1973, P. 345, Sec. 21.2 [123])

5. "Consumer": shall mean any person receiving water service from the city.

6-1.0102 SUPERINTENDENT, APPOINTMENT AND DUTIES.

The city administrator, subject to approval by the council, shall appoint a water superintendent who shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in this city in accordance with this article. This article shall apply to all replacements of existing water service pipes as well as to new ones. The superintendent shall make such rules, not in conflict with the provisions of this article, as may be needed for the detailed operation of the water system, subject to the approval of the council. In the event of an emergency he may make temporary rules for the protection of the system until due consideration by the council may be had.

(Code of Iowa, 1975, Sec. 372.13 [4])

6-1.0103 MANDATORY CONNECTIONS.

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

(Iowa Departmental Rules, 1973, P. 364, Sec. 30.3 [135])

6-1.0104 ABANDONED CONNECTIONS.

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

6-1.0105 PERMIT.

Before any person 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 him. The application shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. No different or additional uses will be allowed except by written permission of the superintendent. The superintendent shall issue the permit, bearing his signature and stating the time of issuance, if

the proposed work meets all the requirements of this article and if all fees required under this article have been paid. Work under any permit must be begun within six (6) months after it is issued. The superintendent may at any time revoke the permit for any violation of this article and require that the work be stopped.

(Code of Iowa, 1975, Sec. 372.13 [4])

6-1.0106 FEE FOR PERMIT.

Before any permit is issued the person who makes the application shall pay \$16.00 to the clerk to cover the cost of issuing the permit and supervising, regulating and inspection of the work.

(Code of Iowa, 1975, Sec. 384.84 [2a])

6-1.0107 COMPLIANCE WITH PLUMBING CODE.

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

(Iowa Departmental Rules, 1973, P. 346, Sec. 22.1 [2])

6-1.0108 PLUMBER REQUIRED.

All installations of water service pipes and connections to the water system shall be made by a competent plumber.

6-1.0109 EXCAVATIONS.

All trench work, excavation and backfilling required in making a connection shall be performed in accordance with applicable provisions of Section 3-3.0114 of the city code.

6-1.0110 TAPPING MAINS.

All taps into water mains shall be made under the direct supervision of the superintendent and in accord with the following:

1. Independent Services. No more than one (1) 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.

(Iowa Departmental Rules, 1973, P. 367, Sec. 30.12 [3])

2. Sizes and Location of Taps. All mains four inches (4") or less in diameter shall receive no larger than a three-fourths inch (3/4") tap. All mains of over four inches (4") in diameter shall receive no larger than a one inch (1") tap. Where a larger connection than a one inch (1") tap is desired, two (2) or more small taps or saddles shall be used, as the superintendent shall order. All taps in the mains shall be made at or near the top of the pipe, at least eighteen inches (18") apart. No main shall be tapped nearer than two feet (2') of the joint in the main.

3. Corporation Cock. A brass corporation cock, of the pattern and weight approved by the superintendent, shall be inserted in every tap in the main. The corporation cock in the main shall in no case be smaller than one (1) size smaller than the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the superintendent in such form as he shall require.

5. Water Main Tapping Fee.

A. The city will charge a one (1) time new construction fee of two hundred dollars (\$200.00) to tap into the main water line for each new service.

B. The city shall not be responsible for running the water line to the meter. This remains the responsibility of the owner. The city will tap into the main water line.

(Ord. 292, 1992: Code of Iowa, 1975, Sec. 372.13 [4])

6-1.0111 INSTALLATION OF WATER SERVICE PIPE.

Water service pipes from the main to the meter setting shall be standard weight Type K copper, approved cast iron or one hundred sixty (160) pound test plastic of

three-fourths inch (3/4") diameter. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

6-1.0112 CURB STOP.

There shall be installed a main shut-off valve of the inverted key type on the water-service pipe at the outer sidewalk line 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.

(Iowa Departmental Rules, 1973, P. 367, Sec. 30.12 [135])

6-1.0113 INTERIOR STOP AND WASTE COCK.

There shall be installed a shut-off valve and waste cock on every service pipe inside the building as close to the entrance of the pipe within the building as possible and so located that the water can be shut off conveniently and the pipes drained. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

(64th G.A., Ch. 1088, Sec. 1)

(Iowa Departmental Rules, 1973, P. 367, Sec. 30.12 [1])

6-1.0114 INSPECTION AND APPROVAL.

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

(Iowa Departmental Rules, 1973, P. 379, Sec. 34.11 [135])

6-1.0115 COMPLETION BY THE CITY.

Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water-service pipe is installed and connected with the water system, or

should the work be improperly done, the superintendent shall have the right to finish or correct the work, and the council shall assess the costs to the property owner or the plumber. If the plumber is assessed, he must pay the costs before he can receive another permit. If the property owner is assessed, such assessment shall be collected with and in the same manner as general property taxes.

(Code of Iowa, 1975, Sec. 364.12 [3a and h])

6-1.0116 SHUTTING OFF WATER SUPPLY.

After giving reasonable notice, the superintendent may shut off a supply of water to any customer because of any substantial violation of this article, or valid regulation under Section 6-1.0102 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.

6.1.0117 MAINTENANCE OWNER'S RESPONSIBILITY.

It shall be the responsibility of the owner of the property connected to any water main to keep in good repair and free of any leaks the corporation cock, water service pipe and curb stop whether in the public right of way or not.

6-1.0118 FAILURE TO MAINTAIN.

When any corporation cock, water service pipe or curb stop becomes defective or creates a nuisance and the owner fails to correct a nuisance the city may do so and access the costs thereof to the property.

(Code of Iowa, 1975, Sec. 364.12 [3a and h])

6-1.0119 OPERATION OF CURB STOP.

It shall be unlawful for any person except the water superintendent to turn water on at the curb stop.

ARTICLE 2
WATER METERS

6-1.0201 WATER USE METERED.

All water furnished consumers shall be measured through meters furnished and installed by the city.

(Code of Iowa, 1975, Sec. 384.84 [1])

6-1.0202 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.

6-1.0203 LOCATION OF METERS.

All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing.

6-1.0204 METER SETTING.

The property owner shall have provided all necessary piping and fittings for proper setting of the meter by the city including a globe type valve on the discharge side of the meter. Meter pits may be used only upon approval of the superintendent and of a design and construction approved by him.

6-1.0205 METER REPAIRS; COST.

Whenever a water meter owned by the city is found to be out of order the superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the consumer or property owner, then the property owner shall be liable for the cost of repairs.

6-1.0206 RIGHT OF ENTRY.

The superintendent shall be permitted to enter the premises of any consumer at any reasonable time to remove or change a meter.

6-1.0207 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 following schedule.

(Code of Iowa, 1975, Sec. 384.84 [2a])

SIZE OF METER INSTALLED	FEE
5/8 inches	\$16.00

SIZE OF METER INSTALLED	FEE
3/4 inches	\$16.00
1 inch	\$16.00
1 1/4 inches	\$50.00
1 1/2 inches	\$75.00
2 inches	\$100.00

6-1.0208 MAINTENANCE TEST.

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 one and one-half percent shall not be returned to service until properly adjusted.

6-1.0209 DEDUCTION METER

Property owners have the option of purchasing a second water meter to measure water that is not being returned to the City sanitary sewer system. The meter must be purchased from the City of Buffalo at a price to be equal to the price the city pays to purchase and modify the meter. The meter then becomes the property of the property owner who is responsible for all meter repair and maintenance. Water usage measured through this meter will be deducted from total usage for Sewer Utility charges, but in no instance will the deductions lower the bill beyond the minimum charge for sewer. The deduction meter will be read by the Utility personnel while reading the water meters. (Ord. 411, 2006)

ARTICLE 3
WATER RATES

6-1.0301 SERVICE CHARGES.

Each customer shall pay for water service provided him by the city based upon his use of water, as determined by meters provided for in Article 2 of this chapter. Each location, building, premises or connection shall be considered a separate and distinct consumer whether owned or controlled by the same person or not.

(Code of Iowa, 1975, Sec. 384.84 [1])

6-1.0302 RATES AND SERVICE.

Water service shall be furnished at the following rates within the city:

Beginning July 1, 2010

<u>GALLONS USED</u>	<u>RATE</u>
0 - 3,000	\$ 14.51
3,001 & OVER	\$ 14.51 plus \$ 4.04 per 1,000 gallons or fraction thereof in excess of 3,000 gal- lons.

JULY 1ST

EVERY YEAR THEREAFTER - A THREE PERCENT (3%) INCREASE SHALL APPLY TO THE BASIC RATE AND TWO (2%) TO THE EXCESS RATE

(Ord. 437 2010; Ord. 428, 2009; Ord. 372 § 2 (part), 2001; Ord. 210, Sec. 1, 1982; Ord. 186, Sec. 1, 1980)

6-1.0303 RATES OUTSIDE THE CITY.

Water service shall be provided any consumer located outside the corporate limits of the city which the city has agreed to serve at rates established by resolution of the council. No such consumer, however, will be served unless he 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, 1975, Sec. 364.4 [2] and 384.84 [2c])

6-1.0304 BILLING FOR WATER SERVICE.

Billing and payment for water service shall be in accordance with the following:

(Code of Iowa, 1975, Sec. 384.84 [1])

1. Bills Issued. The clerk shall prepare, date and issue bills for water service. Bills shall be deemed issued as of the date indicated on the bill.

2. Bills Payable. Bills for water service shall be due and payable at the office of the clerk within fifteen (15) days of the date of issue.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. If any charge for this service shall not be paid by the day of the month in which it shall be come due and payable, a charge of three percent (3%) of the amount of the bill shall be added thereto and collected wherewith.

(Ord. 417, 2007)

4. Minimum fees will not be charged if the water service is stubbed at the main or if the water service is turned off at the Curb Stop by Utility Employees.

(Ord.412, 2006)

6-1.0305 SERVICE DISCONTINUED.

Water service to delinquent consumers shall be discontinued in accordance with the following:

(Code of Iowa, 1975, Sec. 384.84 [1])

1. Notice. The clerk shall notify each delinquent consumer that water service will be discontinued if payment, including late payment charges, is not received within thirty (30) days of the date when due. Such notice shall be sent by first class mail within five (5) days of a bill becoming delinquent.

2. Service Discontinued. The superintendent shall shut off the supply of water to any consumer who, not having contested the amount billed in good faith, has failed to make payment by the date specified in the notice of delinquency.

6-1.0306 LIENS FOR UNPAID WATER SERVICE CHARGES.

1. All water service rates or charges established in this article, if not paid within thirty-five (35) days after billing, are a lien upon the premises served by the water service.

2. The lien specified in subsection 1 shall be imposed upon a certification by the city to the Scott County treasurer that such rates or charges are due and unpaid. A lien imposed pursuant to this article shall not be less than five dollars (\$5.00).

3. A residential rental property shall be exempt from the imposition of a lien for water service rates or charges incurred by a bona fide tenant of the premises, if the landlord gives written notice to the city clerk that the tenant is liable for the charges. Such written notice shall contain the name of the tenant responsible for the charges, the address that the tenant is to occupy, and the date that the occupancy begins. A change in tenant shall require a new written notice. The landlord shall also give another written notice to the city clerk within ten (10) days after the date that the premises is no longer occupied as a residential rental property, which shall specify the date on which the tenancy ended.

4. The lien exemption for residential rental property specified in subsection 3 does not apply to charges for repairs to a water service if the repair charges become delinquent.

5. Any person who fails

A. To provide a written notice of a change in tenancy;

B. To provide written notice that the premises is no longer occupied as a residential rental property; or

C. Wrongfully gives written notice of a bona fide tenancy when no such tenancy actually exists, shall be guilty of a simple misdemeanor for each separate incident involving a wrongful notice or a failure to give notice.

(Ord. 289, 1992)

CHAPTER 2 - TREES

ARTICLE 1 GENERAL PROVISIONS

6-2.0101 PURPOSE.

The purpose of this chapter is to beautify and preserve the appearance of the city by regulating and providing for the planting, care and removal of trees.

6-2.0102 DEFINITIONS.

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

1. "Parking": shall mean 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, unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

2. "Superintendent": shall mean the superintendent of streets.

6-2.0103 PLANTING RESTRICTIONS.

No tree shall be planted in any street or parking except in accordance with the following:

1. Alignment. All trees hereafter planted in any street all 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 10 feet from the property line.

2. Spacing. Trees shall not be planted on this parking if it 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 to street intersections (property line extended) and ten (10) feet to driveways. If it is at all possible, trees should be planted inside the property lines and not between the sidewalk and the curb.

3. Prohibited trees. No person shall hereinafter plant in any street, any fruit bearing tree or any tree of the kinds commonly known as cottonwood, poplar, box elder, Chinese elm, or evergreens.

6-2.0104 DUTY TO TRIM TREES.

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

(Code of Iowa, 1975, Sec. 364.12 [2c])

6-2.0105 ASSESSMENT.

If the abutting property owner fails to trim the trees as required in this chapter, the city may serve notice on the abutting property owner requiring him to do so within five (5) days. If he fails to trim the trees within that time, the city may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, 1975, Sec. 364.12 [2d and e])

6-2.0106 TRIMMING TREES TO BE SUPERVISED.

It shall be unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the city.

6-2.0107 REMOVAL OF TREES.

The superintendent shall remove, on the order of the council, any tree on the streets of the city which interferes with the making of improvements or with travel thereon. He shall additionally remove any trees on the street, not on private property, which have become diseased, or which constitute a danger to the public, or which may otherwise be declared a nuisance.

(Code of Iowa, 1975, Sec. 364.12 [2c] and 372.13 [4])

ARTICLE 2

DUTCH ELM DISEASE CONTROL

6-2.0201 TREES SUBJECT TO REMOVAL.

The council having determined that the health of the elm trees within the city is threatened by a fatal disease known as the Dutch elm disease hereby declares the following shall be removed:

(Code of Iowa, 1975, Sec. 364.12 [3b])

1. Living or standing trees. Any living or standing elm tree or part thereof infected with the Dutch elm disease fungus or which harbors any of the elm bark beetles, that is scolytus multistriatus (eichb.) or hylurgopinus rufipes (marsh.)

2. Dead trees. Any dead elm tree or part thereof including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.

6-2.0202 DUTY TO REMOVE.

No person, firm or corporation shall permit any tree or material as defined in Section 1 of this article to remain on the premises owned, controlled or occupied by him within the city.

(Code of Iowa, 1975, Sec. 364.12 [3b])

6-2.0203 INSPECTION.

The superintendent shall inspect or cause to be inspected all premises and places within the city to determine whether any condition as defined in Section 1 of this article exists thereon, and shall also inspect or cause to be inspected any elm trees reported or suspected to be infected with the Dutch elm disease or any elm bark bearing material reported or suspected to be infected with the elm bark beetles.

6-2.0204 REMOVAL FROM CITY PROPERTY.

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

6-2.0205 REMOVAL FROM PRIVATE PROPERTY.

If the superintendent upon inspection or examination, of any person or by some qualified person acting for him, shall determine with reasonable certainty that any condition as herein defined exists in or upon private premises and that the danger to other elm trees within the city is imminent, he shall immediately notify by certified mail

the owner, occupant or person in charge of such property, to correct such condition within 14 days of said notification. If such owner, occupant or person in charge of said property fails to comply within 14 days of receipt thereof, the council may cause the nuisance to be removed and the cost assessed against the property as provided in Article 2, Chapter 2 of Title III.

(Code of Iowa, 1975, Sec. 364.12 [b and h])

If the superintendent is unable to determine with reasonable certainty whether or not a tree in or upon private premises is infected with Dutch elm disease, he is authorized to remove or cut specimens from said tree, and obtain a diagnosis of such specimens.

CHAPTER 3 - ABANDONED AND JUNKED VEHICLES AND MACHINERY

ARTICLE 1 ABANDONED VEHICLES

6-3.0101 DEFINITIONS.

For the purposes of this article, the following terms, phrases, words and their derivations shall have the following meanings:

1. "Abandoned Motor Vehicle": shall mean any motor vehicle as defined by subsection 3 of this section which does not have lawfully fixed thereto an unexpired license plate or the condition of which is wrecked, dismantled, partially dismantled, inoperative, abandoned or discarded.

2. "Chief": shall mean the chief of police of the city or his designee.

3. "Motor Vehicle": shall mean any vehicle which is self-propelled, and designed to travel along the ground and shall include, but not be limited to, automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go-carts, golf carts, campers and trailers.

4. "Person": shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

5. "Private Property": shall mean any real property within the city which is privately owned and which is not public property as defined in this section.

6. "Public Property": shall mean any street or highway publicly owned for the purposes of vehicular travel, and shall also mean any other publicly owned property or facility.

(Ord. 198 (part), 1980)

6-3.0102 STORING, PARKING OR LEAVING ABANDONED MOTOR VEHICLES PROHIBITED - DECLARED NUISANCE - EXCEPTIONS.

No person shall park, store, leave, or permit the parking, storing or leaving of any motor vehicle which is in an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled or parts thereof, upon any public or private property within the city for a period in excess of forty-eight (48) hours. The presence of an abandoned, wrecked, dismantled, inoperative, junked or partially dismantled vehicle or parts thereof, on public or private property is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this article. This section shall not apply to any vehicle enclosed within a building on private property or to any vehicle held in connection with a junkyard, lawfully licensed by the city and properly operated in the appropriate zone, pursuant to the zoning laws of the city, or to any motor vehicle in operative condition specifically adopted or designed for operation upon drag strips or raceways, or any vehicle retained by the owner for bona fide antique collection purposes.

(Ord. 198 (part), 1980)

6-3.0103 NOTICE TO REMOVE.

Whenever it comes to the attention of the chief that any nuisance described in Section 6-3.0102 exists in the city, a notice of the existence of the nuisance and a request for its removal in the time specified in this article shall be served by certified mail to:

1. The property owner as shown by the records of the county auditor if said motor vehicle is on private property; and

2. The registered owner thereof at the last known address of said registered owner as shown by official records of the jurisdiction in which said motor vehicle is lawfully registered and entitled; and

3. By attaching a notice securely to said motor vehicle.

(Ord. 198 (part), 1980)

6-3.0104 LOCATION OF VEHICLES ON PRIVATE PROPERTY
AND ATTACHMENT OF NOTICE.

The mayor is hereby given authority to authorize any employee of the city to investigate, locate and identify abandoned motor vehicles on private property. Such authorized employee is authorized and directed and shall have full power to execute and attach the prescribed removal notice to such abandonment motor vehicles and shall promptly thereafter give a full report of his acts and doings with respect thereto to the chief on forms prescribed by the chief. Thereafter the chief shall take all further actions required or permitted under the provisions of this article.

(Ord. 198 (part), 1980)

6-3.0105 NOTICE PROCEDURE AND HEARING.

1. The chief shall give notice of removal to the owner of the motor vehicle and, if on private property, to the owner of the private property where it is located, at least seven (7) days before the time of compliance. Notice shall be deemed given when mailed. When the registered owner of the motor vehicle cannot be ascertained, notice affixed to the vehicle shall be sufficient and shall be deemed given when so affixed.

2. The notice shall contain the request for removal within the time specified in the notice, and the notice shall advise that upon failure to comply with the notice to remove, the chief shall undertake such removal and that the costs of removal, notification, preservation, storage and sale of said motor vehicle will be collected from the

sale or redemption of said motor vehicle and, where the vehicle is found on private property, if the proceeds of such sale are not sufficient for payment of such costs, the balance will be assessed against the property for collection in the same manner as a property tax. The notice shall also advise as to the right to hearing as hereafter provided.

3. The persons to whom the notices are directed, or duly authorized agents, may file a written request for hearing before the police and license committee of the city council or its designee within the period for compliance stated in the notice, for the purpose of defending the charges by the city. Such request shall contain the address of appellant to which all further notices to appellant shall be mailed or served.

4. The hearing shall be held as soon as practicable after the filing of the request and the persons requesting the hearing shall be advised of the time and place of such hearing at least three (3) days in advance thereof. At any such hearing the chief and any person requesting said hearing may introduce such witnesses and evidence any party deems necessary.

(Ord. 198 (part), 1980)

6-3.0106 OBTAINING REGISTRATION INFORMATION.

1. When the chief does not know the identity of the registered owner or other legally entitled person, the chief shall cause the state motor vehicle registration records to be searched for the purpose of obtaining the required ownership information. The chief shall also make inquiry of local, state and national stolen motor vehicle files. Such inquiries shall be by teletype or, if available, through computer terminals.

2. If the vehicle appears to be registered in another state the chief shall make similar inquiry by teletype of such other state; provided, however, that if the registration or ownership information is not returned to the chief within twenty-four (24) hours of such inquiry, the only notice to be given prior to towing shall be any notice required to be affixed to the motor vehicle by other provisions of this article.

3. In the event that there is insufficient information on or in the motor vehicle to identify said vehicle or to identify the state of its registration, no notice need be given prior to towing, other than any notice required to be affixed to the vehicle by other provisions of this article.

(Ord. 198 (part), 1980)

6-3.0107 REMOVAL OF MOTOR VEHICLE.

If the violation described in the notice has not been remedied within the period of compliance stated in the notice, or, in the event that a notice requesting a hearing is timely filed, a hearing is had and the existence of a violation is affirmed by the police and license committee or its designee, the chief is authorized to remove and tow away, or have removed and towed away by commercial towing service, the abandoned motor vehicle; provided, that the chief shall not take possession of the motor vehicle involved until forty-eight (48) hours after each appellant is notified of such determination. The determination may be made at the hearing and delivered orally. If not given orally at the hearing it shall be reduced to writing and served upon each appellant either by personal service or by certified mail. The police and license committee may at the time of hearing or in the written notification, extend the time for removal to a period longer than seven (7) days. Written notification shall be deemed given when served or when mailed, as the case may be. It shall be unlawful for any person to interfere with, hinder or refuse to allow the chief, or the chief's designee, to enter upon private property for the purpose of removing a vehicle under the provisions of this article. The motor vehicle so towed shall be impounded at such place or places as the city council shall from time to time designate.

(Ord. 198 (part), 1980)

6-3.0108 EMERGENCY.

In a situation of clear and compelling emergency, the chief is authorized to remove and tow away, or have removed and towed away by a commercial towing service, any vehicle declared a nuisance under Section 6-3.0102 without prior notice and opportunity for hearing.

(Ord. 198 (part), 1980)

6-3.0109 CERTAIN ILLEGALLY PARKED VEHICLES DECLARED
A NUISANCE.

Any motor vehicle illegally parked, standing, stored or placed within the city under any one of the following circumstances:

1. Where such vehicle blocks ingress and egress to and from a private driveway without the consent of the owner or the person in control of the property served thereby;
2. Which remains on private property without the permission of the owner or person in control of the private property;
3. Which is in violation of parking restrictions in residential areas where parking meters are not in operation;
4. Which is in violation of any ordinance regulating snow routes or snow removal;
5. Which obstructs or may obstruct movement of any emergency vehicle;
6. Which impedes or interferes with or may impede or interfere with the normal flow of traffic or with the ability of operators of motor vehicles to keep a proper lookout or with the ability of pedestrians crossing at marked or unmarked crosswalks to keep a proper lookout;
7. Which obstructs or interferes with or may interfere with the use of fire hydrant;
8. Which vehicle has displayed thereon a registration card, registration plate, validation certificate or permit not issued for such vehicle;
9. Which vehicle has displayed thereupon an altered, forged or counterfeited registration card, registration plate, validation certificate or permit;

10. Which is in violation of any ordinance imposing alternate day parking restrictions;

11. Which is in violation of posted signs temporarily prohibiting parking during street resurfacing or oiling and which by its presence obstructs such resurfacing activities; is hereby declared to be a nuisance per se and the chief is hereby authorized and empowered to remove and tow away, or have removed and towed away by commercial towing service, any motor vehicle so illegally parked. Motor vehicles so towed shall be stored in such impoundment areas or places as the city council may from time to time designate.

(Ord. 198 (part), 1980)

6-3.0110 MOTOR VEHICLES IN VIOLATION OF REGISTRATION LAWS.

No person shall park, store, leave or permit the parking, storing, or leaving of any motor vehicle of any kind on public property which does not have lawfully affixed thereto current unexpired registration plates or validation stickers as required by the law of the state. The presence of such motor vehicle is hereby declared a public nuisance which may be abated as such in accordance with the provisions of this article. In the event that notice to remove such vehicle from public property has been given and such vehicle has been removed from public property during the time allowed therefor, and in the event that such vehicle subsequently shall again during the same calendar year be found parked, stored, or standing on public property without current unexpired registered plates or validation sticker properly attached to said motor vehicle as required by the laws of the state, the chief is authorized, empowered and directed to remove and tow away, or have removed and towed away by commercial towing service, such motor vehicle without any further notice or opportunity for hearing.

(Ord. 198 (part), 1980)

6-3.0111 PROCEDURES FOLLOWING REMOVAL.

In the event a motor vehicle has been taken into custody under the provisions of this article, or of any other article of the Municipal Code of the City of Buffalo, Iowa, or under any provisions of the state, wherein no

prior notice has been given, the following procedures shall be followed:

1. The police department, when taking into custody a vehicle, shall notify, within ten (10) days, by certified mail, the last known registered owner of the vehicle and all lien holders of record, addressed to their last known address of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model, and serial number of the vehicle, set forth the location of the facility where it is being held, inform the owner and any lien holders of their right to reclaim the vehicle within twenty-one (21) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody. The notice shall also state that the failure of the owner or lien holders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all lien holders of all right, title, claim and interest in the vehicle and that such 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. If the owner and lien holders do not exercise their right to reclaim such vehicle within the twenty-one (21) days reclaiming period, such owner and lien holders shall no longer have any right, title, claim, or interest in or to such vehicle. No court in any case in law or equity shall recognize any right, title, claim, or interest of any such owner and lien holders after the expiration of the twenty-one (21) day reclaiming period.

2. If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lien holders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under this section. The published notice may contain multiple listings of abandoned vehicles but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in subsection 1 of this section.

3. The owner or any lien holders may, by written request delivered to the police authority prior to the expiration of the twenty-one (21) day reclaiming period, obtain an additional fourteen (14) days within which the vehicle may be reclaimed.

(Ord. 198 (part), 1980)

6-3.0112 RESPONSIBILITY FOR REMOVAL AND COSTS.

Upon prior notice and opportunity to be heard, the owner of a vehicle which is located in violation of this article, and where located on private property, the owner of the private property where the same is located, shall both or either of them be liable for the costs and expenses incurred. Upon the failure of the owner of the property from which the vehicle was removed by the city to pay the unrecovered expenses and costs of removal, preservation, storage, notification, advertisement for sale and sale expenses incurred by the city, such unrecovered costs shall be assessed against the property in the same manner as a property tax. Where such motor vehicle was placed upon private property without the consent of the owner or person in control thereof or where such motor vehicle remains on private property without the consent of the owner or person in control thereof, such unrecovered expenses and costs shall not be assessed against said property.

(Ord. 198 (part), 1980)

6-3.0113 RECORDS MAINTENANCE BY CHIEF.

When a motor vehicle is taken into custody and impounded under the provisions of this article, the chief 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.

(Ord. 198 (part), 1980)

6-3.0114 RETURN OF VEHICLES AND PERSONAL PROPERTY.

Before the owner or other person lawfully entitled to possession of any vehicle which has been impounded under the provisions of this article or any other provision of

law or other article of the Municipal Code of the city, such person shall present to the chief evidence of such person's identity and right to possession of the vehicle, shall sign a receipt for its return, shall pay the costs of removal, preservation, storage, notification and preliminary costs of sale, if any.

(Ord. 198 (part), 1980)

6-3.0115 VEHICLES AS EVIDENCE.

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

(Ord. 198 (part), 1980)

6-3.0116 DELEGATION OF POWERS AND DUTIES.

The chief of police of the city police department is hereby authorized and empowered to delegate by written order to any or all of the officers of the Buffalo police department the authority and duties imposed upon the chief by the provisions of this article.

(Ord. 198 (part), 1980)

CHAPTER 4 - PLANNING AND ZONING COMMISSION

6-4.01 PLANNING AND ZONING COMMISSION.

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

(Ord. 404 § 1, 2006: Code of Iowa, 1975, Secs. 414.6 and 392.1)

6-4.02 TERMS OF OFFICE.

The term of office of the members of the commission shall be three (3) years. The terms of not more than one-third (1/3) of the members will expire in any one (1) year.

(Ord. 404 § 2, 2006: Code of Iowa, 1975, Sec. 392.1)

6-4.03 VACANCIES.

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

(Code of Iowa, 1975, Sec. 392.1)

6-4.04 COMPENSATION.

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

(Code of Iowa, 1975, Sec. 392.1)

6-4.05 POWERS AND DUTIES.

1. Selection of Officers. The commission shall choose annually at its first regular meeting one (1) of its members to act as chairman and another as vice-chairman, who shall perform all the duties of the chairman during his absence or disability.

(Code of Iowa, 1975, Sec. 392.1)

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

(Code of Iowa, 1975, Sec. 392.5)

3. 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.

(Code of Iowa, 1975, Sec. 392.1)

4. Appointment of Assistants. Subject to the limitations contained in this chapter as to the expenditure of funds, it may appoint such assistants as it may deem necessary and prescribe and define their respective duties and fix and regulate the compensation to be paid to the several persons employed by it.

(Code of Iowa, 1975, Sec. 392.1)

5. Comprehensive Plan. It shall have full power and authority to make or cause to be made such surveys, stud-

ies, maps, plans, or charts of the whole or any portion of the city or of any land outside thereof, which in the opinion of the commission bears relation to the comprehensive plan and shall bring to the attention of the council and may publish its studies and recommendations.

(Code of Iowa, 1975, Sec. 414.3)

6. Comprehensive Plan: Preparation. For the purpose of making a comprehensive plan for the physical development of the city, the commission shall make careful and comprehensive studies of present conditions and future growth of the city and with due regard to its relation to neighboring territory. The plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the city and its environs which will, in accordance with the present and future needs, best promote health, safety, morals, order, convenience, prosperity, and general welfare, as well as efficiency and economy in the process of development.

(Code of Iowa, 1975, Sec. 414.3 and 392.1)

7. Comprehensive Plan: Public Hearing. Before adopting a comprehensive plan as referred to in the preceding paragraph, or any part of it, or any substantial amendment thereof, the commission shall hold at least one public hearing thereon, notice of the time of which shall be given by one publication in a newspaper of general circulation in the city not less than ten nor more than twenty days before the date of hearing. The adoption of the plan or part or amendment thereof shall be by resolution of the commission carried by the affirmative vote of not less than two-thirds of the members of the commission. After adoption of said plan by the commission an attested copy thereof shall be certified to the council and the council may approve the same. When said plan or any modification or amendment thereof shall receive the approval of the council, the said plan until subsequently modified or amended as hereinbefore authorized shall constitute the official city plan.

(Code of Iowa, 1975, Sec. 414.4, 414.6 and 392.1)

8. Comprehensive Plan: Amendments. When the comprehensive plan as hereinbefore provided has been adopted no substantial amendment or modification thereof shall be

made without such proposed change first being referred to the commission for its recommendations. If the commission disapproves the proposed change it may be adopted by the council only by the affirmative vote of at least three fourths of the members of the said council.

(Code of Iowa, 1975, Sec. 414.4, 414.5 and 392.1)

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

(Code of Iowa, 1975, Sec. 392.1)

10. Review and Comment on Flats. All plans, plats, or replats of subdivision or resubdivisions 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, 1975, Sec. 392.1)

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

(Code of Iowa, 1975, Sec. 392.1)

12. Zoning. The commission shall have and exercise all the powers and duties and privileges in preparing and

amending the city zoning code as provided by Chapter 414 of the 1975 Code of Iowa.

(Code of Iowa, 1975, Sec. 414.6)

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

(Code of Iowa, 1975, Sec. 392.1)

14. Limitation on Entering Contracts. The commission shall have no power to contract debts beyond the amount of its income for the present year.

(Code of Iowa, 1975, Sec. 392.1)

CHAPTER 5 - SUBDIVISION REGULATIONS

ARTICLE 1 GENERAL PROVISIONS

6-5.0101 TITLE.

This chapter shall be known and may be cited as the Buffalo Subdivision Code.

6-5.0102 DEFINITIONS.

For use in this chapter the following terms or words shall be defined:

1. "Alley": shall mean a public right of way primarily for vehicular traffic along the side or in the rear of properties which affords only a secondary means of access to abutting properties.

2. "Block": shall mean a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, bulkhead lines or shore lines of waterways, or corporate boundary lines.

3. "Building": shall mean any structure designed, built or intended for the shelter, enclosure, or protec-

tion of persons, animals, chattels, or moveable property of any kind.

4. "Building Setback Line": shall mean a line within a lot or parcel of land, so designated on the plats of the proposed subdivision, between which line and the adjacent boundary of the street upon which the lot abuts the erection of a building is prohibited.

5. "Cross Walk": shall mean a public right-of-way located across a block to provide pedestrian access to adjacent streets or areas.

6. "Cul-de-sac": shall mean a minor street having one open end and being permanently terminated by a vehicle turnaround.

7. "Easement": shall mean a grant by a property owner for the use of a strip of land by the general public, a corporation of a certain person or persons for a specified purpose or purposes.

8. "Highway": shall mean a right-of-way for vehicular traffic which traverses a non-urban area, usually a state or federal numbered route.

9. "Lot": shall mean a portion of a subdivision or other parcel of land intended for transfer of ownership or for building development.

10. "Metes and Bounds": shall mean the method used to describe a tract or urban land intended to be used for dwelling or other purposes, so that it can be recorded in the county recorders office, as contrasted with the description of a part of a properly approved and recorded subdivision plat by the lot and block number.

11. "Plan Commission or Planning Commission": shall mean the city planning and zoning commission.

12. "Plat": shall mean a plan, map, drawing, or chart on which the subdividers plan for the subdivision of land is presented and which he submits for approval and intends to record in final form.

13. "Final Plat": shall mean the drawings and documents presented for final approval.

14. "Preliminary Plat": shall mean the drawings presented for conditional approval.

15. "Roadway": shall mean the surfaced area within a street right-of-way intended for vehicular traffic, including all curb and gutter facilities.

16. "Street": shall mean an area which primarily serves or is intended to serve as a vehicular and pedestrian access to abutting lands or to other streets. The word "street" refers to the right of way or easement and not to the roadway or paving or other improvement within the street right-of-way.

17. "Approved Street": shall mean any street, meeting standards and specifications of the city.

18. "Public Street": shall mean any arterial or secondary street which is shown on the subdivision plat and or is to be dedicated for public use.

19. "Subdivider": shall mean any person who shall layout, for the purpose of sale or development, any subdivision or part thereof, as defined herein, either for himself or others.

20. "Subdivision": shall mean the division of a separate tract of land into three or more lots or parcels for the purpose of transfer of ownership or building development, or if a new road is involved, any division of land.

21. "Used for": shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

6-5.0103 JURISDICTION.

All plots, replats or subdivisions of land into three or more parts for the purpose of laying out a portion of the city, addition thereto or suburban lots within two

miles of the corporate limits of the city, for other than agricultural purposes, shall be submitted to the council and plan commission in accordance with the provisions of this chapter and shall be subject to the requirements established herein.

(Code of Iowa, 1973, Sec. 409.1)

6-5.0104 VARIATIONS.

Whenever the tract to be subdivided is of such unusual size or shape or is surrounded by such development or unusual conditions that the strict application of the requirements contained in this chapter would result in real difficulties and substantial hardships or injustice, the plan commission may permit specific variations or modifications so that the subdivider is allowed to develop his property in a reasonable manner. At the same time the public welfare and interests of the city and surrounding area are protected and the general intent and spirit of this chapter is preserved.

(Code of Iowa, 1973, Sec. 409.14)

6-5.0105 ACTIONS PROHIBITED.

Until plats and plans for the subdivision are approved:

1. No Preliminary Lay Out. No land shall be subdivided, nor any street laid out, nor any improvements made to the natural land.

2. No Sale. No lot, tract or parcel of land within any subdivision shall be offered for sale nor shall any sale, contract for sale, or option be made or given.

3. No Improvements. No improvements such as sidewalks, water supply, storm water drainage, sanitary sewerage facilities, gas service, electric service, lighting, grading, paving or resurfacing of streets shall be made by any owner or owners or agent, or by any public service corporation at the request of such owner or owners or agent.

(Code of Iowa, 1973, Sec. 409.14)

6-5.0106 PARKS, PLAYGROUNDS AND SCHOOL SITES.

1. In subdividing property due considerations shall be given to the dedication of suitable sites for schools, parks and playgrounds, so as to conform as nearly as possible to the recommendations of the council in its master plan.

2. Such provision should be indicated on the preliminary plan in order that it may be determined when and in what manner such areas will be dedicated to the city.

(Code of Iowa, 1973, Sec. 409.14)

6-5.0107 ACCEPTANCE OF OFFERINGS OR DEDICATIONS.

All offerings or dedications of land to the city for use as streets, highways, alleys, schools, parks, playgrounds, or other public use shall be offered to the plan commission for review and recommendation before being accepted by the council for review and recommendation before being accepted by the council or by any other governing authority of the city.

(Code of Iowa, 1975, Sec. 372.13)

6-5.0108 PLAN FOR LARGER SUBDIVISION.

Where a tract of land proposed for subdivision is part of larger, logical subdivision unit in relation to the city as a whole the plan commission may, before approval, cause to be prepared a plan for the entire area or neighborhood, such plan to be used by the plan commission as an aid in judging the proposed plat. The city engineer shall cooperate with the plan commission in the preparation of this plan and shall furnish such surveys and data as may be necessary.

(Code of Iowa, 1975, Sec. 372.13)

6-5.0109 INTERPRETATION.

The provisions of this chapter shall be interpreted in accordance with the following:

1. Minimum Requirements. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements.

2. Higher Standards. Where the conditions imposed by any provision of this chapter upon the use of land are

either more restrictive or less restrictive than comparable conditions imposed by any other provision of this chapter or of any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall govern.

3. Abrogation. The provisions of the chapter are not intended to abrogate any easement, covenant or any other private agreement, provided that where the regulations are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements, the requirements of the provisions of this chapter shall govern.

4. Powers of Council. Any permissive action granted the plan commission herein, shall likewise be deemed granted the council when the preliminary plat and final plat are before the council for action.

6-5.0110 ENFORCEMENT.

In addition to other remedies and penalties prescribed by law or ordinance, the provisions of this chapter shall not be violated subject to the following:

(Code of Iowa, 1973, Sec. 409.14)

1. Plot Invalid. No plot or subdivision in, or within two miles of the city be recorded or filed with the county auditor or county recorder, nor shall any plot or subdivision have any validity until it complies with the provision of this chapter and has been approved by the council as presented herein.

2. Compliance with Zoning Code. The zoning enforcement officer shall not issue building or repair permits for any structure located on a lot in any subdivision within the city limits, the plat of which has been prepared after the adoption of this chapter but which has not been approved in accordance with the provisions contained herein.

3. Use of City Funds Prohibited. No public improvements over which the council has control shall be made with city funds, nor shall any city funds be expended for

street maintenance, street improvements, or other services in any area that has been subdivided unless such subdivision and streets have been approved in accordance with the provisions of this chapter and the street accepted by the council as a public street.

6-5.0111 AMENDMENTS.

Any proposed amendment to this chapter shall first be submitted to the plan commission for review and recommendations. The plan commission shall report within thirty (30) days after receipt of the proposal to the council.

(Code of Iowa, 1975, Sec. 372.13)

ARTICLE 2

PLATS: PROCEDURES AND REQUIREMENTS

6-5.0201 SUBDIVISION REGULATIONS.

The owner or developer of any tract of land to be subdivided shall comply with the following:

(Code of Iowa, 1973, Sec. 409.14)

1. Conference. Each subdivider of land should confer with the city engineer or city attorney or some member of the plan commission in order to become thoroughly familiar with the proposed city plan or with any city regulations affecting the territory in which the proposed subdivision lies.

2. Submission of Plans and Data. Previous to the filing of an application for approval of the preliminary plat, the subdivider shall submit to the plan commission plans and data as specified in Section 6-5.0202. This step does not require formal application fee or filing of plat with the plan commission.

3. Pre-Application Review. Within thirty (30) days, the plan commission shall inform the subdivider that the plans and data as submitted or as modified do or do not meet the objectives of these regulations. When the plan commission finds that the plans and data do not meet the objectives of these regulations, it shall express its reasons therefor.

4. Land Subject to Flooding or Poor Drainage. No plat will be approved for a subdivision which is subject to periodic flooding or which contains poor drainage facilities and which would make adequate drainage of the lots and streets impossible. However, if the subdivider agrees to make improvements which will in the opinion of the city engineer, make the area completely safe for residential occupancy and provide adequate lot and street drainage, the preliminary plat of the subdivision may be approved.

6-5.0202 PRE-APPLICATION PLANS AND DATA.

The pre-application plans and data submitted to the plan commission shall comply with the following:

(Code of Iowa, 1973, Sec. 409.14)

1. General Subdivision Data. General subdivision data shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawings required below. This may include information on existing covenants, land characteristics, and available community facilities and utilities and information describing the subdivision proposal such as number of residential lots; typical lot width and depth; public areas; proposed protective covenants; and proposed utilities and street improvements.

2. Sketch. Sketch plan or topographic survey shall show in simple sketch form the proposed layout of streets, lots and other features in relation to existing conditions. The sketch plan may be a freehand pencil sketch made directly on a print of the topographic survey. The sketch plan shall include the existing topographic data listed in Section 6-5.0204 (1).

6-5.0203 PRELIMINARY PLATTING PROCEDURES.

The preliminary plat shall be submitted, reviewed and approved or disapproved in accordance with the following:

(Code of Iowa, 1973, Sec. 409.14)

1. Preparation Preliminary Plat. On reaching conclusions, informally, as recommended in Section 6-5.0201, regarding his general program and objectives, the subdivider shall cause to be prepared a preliminary plat, to-

gether with improvement plans and other supplementary material as specified in Section 6-5.0204.

2. Submission Requirements. Four (4) copies of the preliminary plat and supplementary material specified shall be submitted to the clerk with written application for approval at least three (3) days prior to the meeting at which it is to be considered.

3. Clerk Referral. The clerk shall retain one copy of the preliminary plat on file and submit three (3) copies to the plan commission.

4. Plan Commission Recommendation. Following review of the preliminary plat and other data submitted in compliance with this chapter, and following negotiations with the subdivider on changes deemed advisable and the kind and extent of improvements to be made by him, the plan commission shall, within thirty (30) days, act on the plat and data as submitted or modified, and, if approved, the plan commission shall express its approval, if any, or, if disapproved, the plan commission shall express its disapproval and its reasons therefor.

5. Approval Process: Lapse of Time. If the commission does not act within thirty (30) days, the preliminary plat shall be deemed to be approved by them, however, the subdivider may agree to an extension of the time for a period not to exceed sixty (60) days. The commission shall submit its recommendation to council for its action. If no action is taken by the plan commission within thirty (30) days after submission or within the extended time period council shall consider the same within the next thirty day period.

6. Council Approval. The approval of the preliminary plat by the council does not constitute approval of the subdivision, but is merely an authorization to proceed with the preparation of the final plat and with the installation of the necessary improvements therein in accordance with the requirements of Article 4 of this Chapter. In the event of disapproval, council shall give the reasons therefor and shall notify the owner what change must be made to obtain approval.

7. Distribution of Approved Plat. One copy of the approved preliminary plan, signed by the mayor and clerk, shall be retained in the clerk's office, and one copy in the office of the plan commission, one copy for the use of city attorney and engineer and one signed copy shall be given to the subdivider.

6-5.0204 PRELIMINARY PLAT: DATA AND PLANS.

The preliminary plat shall conform to the following requirements:

(Code of Iowa, 1973, Sec. 409.14)

1. Data of Existing Plat Conditions. In subsection 2, required as a basis for the preliminary plat, shall include existing conditions as follows, except when otherwise specified by the plan commission:

A. Boundary lines: bearings and distances.

B. Easements: location, width and purpose.

C. Streets on and adjacent to the tract: right of way width and location; type, width and elevation of surfacing; any legally established center line elevations, walks, curbs, gutters, culverts, etc.

D. Utilities on and adjacent to the tract: location, size, and invert elevation of sanitary, storm, and combined sewers; location and size of water mains; location of gas lines, fire hydrants, electric and telephone poles and street lights; if water mains and sewers are not on or adjacent to the tract, indicate the direction and distance to, and the sizes of nearest ones, showing invert elevation of sewers.

E. Ground elevations on the tract: based on the city datum plane. For land that slopes less than one-half (0.5) percent show not less than one (1) foot contours; for land that slopes one-half (0.5) to two (2.0) percent, show not less than two (2) foot contours; and for land that slopes re than two (2.0) percent show not less that five (5) foot contours.

F. Subsurface conditions on the tract, if required by the plan commission; location and results of tests made to ascertain subsurface soil, rock and ground water conditions; depth to ground water unless test pits are dry at a depth of five (5) feet; location and results of soil percolation tests if individual sewage disposal systems are proposed.

G. Other conditions. on the tract: water courses, marshes, rock outcrop, wooded areas, isolated preservable trees one (1) foot or more in diameter, houses, barns, shacks, and other significant features.

H. Other conditions on adjacent land: approximate direction and gradient of ground slope, including any embankments or retaining walls; character and location of buildings, railroads, power lines, towers and other nearby non-residential land used or adverse influences; and owners of adjacent unplatted land (for adjacent platted land refer to subdivision plat by name, typical lot size, and dwelling type).

I. Zoning on and adjacent to the tract.

J. Name and legal description: present tract designation according to official records in offices of the county recorder; with names and addresses of owners, notation stating acreage, scale, north arrow.

2. Preliminary Plat. The preliminary plat shall be at a scale of not more than one hundred (100) feet to one (1) inch. It shall show all existing conditions required in subsection 1 and shall show all proposals, including the following;

A. The location of present property and section lines and lines of corporate limits and other legally established districts, streets, buildings, water courses, tree masses, and other existing features within the area to be subdivided and similar facts regarding existing conditions on land immediately adjacent thereto.

B. The proposed location and width of streets, alleys, lots, and buildings and set-back lines and easements, if any.

C. Existing sanitary and storm sewers, water mains, culverts and other underground structures within the tract or immediately adjacent thereto. The location and size of the nearest water main and sewer or outlet are to be indicated in a general way upon the plat.

D. The title under which the proposed subdivision is to be recorded and the name of the subdivider platting the tract.

E. The names and adjoining boundaries of all adjoining subdivisions and the names of record owners of adjoining parcels of unsubdivided land.

F. Contours with intervals as set forth in subsection 1e.

G. Grades and profiles of streets and plans and written and signed statements explaining how the subdivider proposed to provide and install improvements meeting the requirements of Article 4 of this chapter.

H. Sites, if any, to be reserved or dedicated for schools, parks, playgrounds or other public uses.

3. Other Preliminary Plans. When required by the plan commission, the preliminary plat shall be accompanied by profiles showing existing ground surface and proposed street grades, including extensions for a reasonable distance beyond the limits of the proposed subdivision; typical cross sections of the proposed grading, roadway, and sidewalks, and preliminary plan of proposed sanitary and storm water sewers with grades and sizes indicated. All elevations shall be based on the city datum plane.

4. Draft of Protective Covenants. When the subdivider proposed to regulate land use in the subdivision and otherwise protect the proposed development he shall submit a draft of protective covenants.

5. Exemption. Plats containing three (3) lots or less may be exempted from the above requirements of the preliminary plat.

6-5.0205 FINAL PLATTING PROCEDURES.

The final plat shall be submitted, reviewed and approved or disapproved in accordance with the following:

(Code of Iowa, 1973, Sec. 409.14)

1. Conform to Preliminary Plat. The final plat shall conform substantially to the preliminary plat as approved, and, if desired by the subdivider, it may constitute only that portion of the approved preliminary plat which he proposed to record and develop at the time, provided, however, that such portion conforms to all requirements of these regulations.

2. Submission. Application for approval of the final plat shall be submitted in writing to the clerk at least three days prior to the plan commission meeting at which it is to be considered.

3. Number of Copies and Deadline. Five (5) copies of the final plat and other exhibits required for approval shall be prepared as specified in Section 6-5.0206 and shall be submitted to the clerk within six months after approval of the preliminary plat; otherwise such approval shall become null and void unless application for an extension of time is made to and granted by the plan commission.

4. Attachments to Submission. The final plat submitted to the plan commission for approval shall be accompanied by a notice from the clerk stating that there has been filed with and approved by the city attorney and council, one of the following:

A. A certificate by the city engineer that all improvements and installations to the subdivision required for its approval have been made or installed in accordance with the specifications, or

B. In lieu of final completion of improvements, notice that subdivider has agreed to furnish bond as set forth in Section 6-5.0401 (1).

C. If no notice is so furnished, approval by the plan commission shall be conditioned upon completion of improvements or furnishing bond prior to council giving approval of the final plat.

5. Within thirty (30) days after application of the final plat, the plan commission shall approve or disapprove it. If the commission approves, such approval and the date thereof shall be noted on the plat over the signature of its chairman. If it disapproves, it shall set forth its reasons in its own records and provide the applicant with a copy.

6. Commission Recommendation to Council. After the plan commission has completed its review of the final plat it shall submit its recommendations to the council.

7. Failure of Commission to Act. If the plan commission fails to act upon the final plat within thirty (30) days after receipt of it, the council shall act upon it in accordance with subsection 8, unless a time extension is obtained from the subdivider.

8. Council Action. Within thirty (30) days after receipt of the plan commission's recommendations the council shall take its action in accordance with the following:

A. Obtain the city attorney's opinion as to the compliance of the final plat with all legal requirements.

B. A majority vote of the council shall be needed to approve the final plat. When the plan commission's recommendation is for disapproval, council approval shall require a three-fourths vote of the entire membership of the council.

C. With council approval the mayor and clerk shall be authorized to sign the original tracing.

9. Certification on Land in the Unincorporated Area. The certificates of the approved final plat shall include the signatures of the chairman of the county board of supervisors and the county auditor where the plat covers land in the unincorporated area.

6-5.0206 FINAL PLAT: REQUIREMENTS.

The final plat shall conform to the following requirements.

(Code of Iowa, 1973, Sec. 409.14)

1. Physical Appearance. The final plat shall be drawn in ink on tracing cloth or a pencil copy along with one copy of same reproduced on Mylar, or similar material may be substituted, on sheets not to exceed thirty (30) inches wide by thirty six (36) inches long and shall be at a scale of one hundred (100) feet or less to one (1) inch.

2. Condition to Approval. If the final plat conforms to the approved preliminary plat and if the necessary improvements are constructed in accordance with the approved plans therefor or a satisfactory surety and maintenance bond submitted assuring their construction in accordance with the approved plans, the final plat shall be approved.

3 Contents. The final plat shall show:

A. The boundary lines of the area being subdivided with accurate distances and bearings.

B. The lines of all proposed streets and alleys with their width and names.

C. The accurate outline of any property which is offered for dedication for public use.

D. The lines of all adjoining lands and the lines of adjacent streets and alleys with their width and names.

E. All lot lines and an identification system for all lots and blocks.

F. Building lines and easements for any rights of way provided for public use, services or utilities, with figures showing their dimensions.

G. All dimensions, both linear and angular, necessary for locating boundaries of subdivisions, lots, streets, alleys, and of any other areas for public or private use; the linear dimensions are to be expressed in feet and decimals of a foot.

H. Radii, arcs and chords, points of tangency, central angles for all curvilinear streets, and radii for all rounded corners.

I. All survey monuments and bench marks together with their description.

J. Name of subdivision and description of property subdivided, showing its location and extent, points of compass, scale of plan, and name of owner or owners or the subdivider.

K. Certification by either a civil engineer or a surveyor, licensed under the laws of Iowa, to the effects that the plan represents a survey made by him and that all the necessary survey monuments are correctly shown thereon.

L. Private restrictions and trusteeships and their periods of existence. Should such restrictions and trusteeships be of such length as to make the lettering of same on plat impracticable and thus necessitate the preparation of a separate instrument, reference to such instrument shall be made on the plat. Plats shall contain proper acknowledgement of owners and the consent by the mortgages to said plat and restrictions.

M. Cross sections and profiles of streets showing grades approved by the city engineer. The profiles shall be drawn to city standard scales and elevations and shall be based on the city datum plane.

N. Protective covenants in form for recording.

4. Attachments. A notice from the clerk stating that there has been filed with and approved by the city attorney and the council, one of the following:

A. A certificate by the city engineer, that all improvements and installations to the subdivision required for its approval have been made or installed in accordance with the city specifications; and a maintenance bond guaranteeing the improvement for a period of two (2) years against defective materials and workmanship.

B. A bond or certified check has been posted, which is available to the city and in sufficient amount to assure completion and guaranteeing the improvement for a period of two (2) years against defective materials and workmanship of all required improvements.

5. Other Data: Such other certificates, affidavits, endorsements, or dedications as may be required by the plan commission in the enforcement of these regulations.

ARTICLE 3 DESIGN STANDARDS

6-5.0301 STREETS AND ALLEYS.

The following requirements pertaining to streets and alleys shall be followed by all subdividers:

(Code of Iowa, 1973, Sec. 409.4 and .6)

1. Access to Adjoining Property. The street and alley arrangements shall be such as to cause no hardship to owners of adjoining property when they plat their own land and seek to provide for convenient access to it.

2. Cul-de-sacs. Cul-de-sacs or dead-end streets are to be avoided but if necessary in the opinion of the plan commission, they shall terminate in a circular right of way with a minimum diameter of one hundred (100) feet unless the plan commission approves an equally safe and convenient space.

3. Existing Streets. The arrangement of streets in new subdivisions shall make provisions for the continua-

tion of the principal existing streets in adjoining additions (or the proper projection where adjoining property is not subdivided) insofar as they may be necessary for public requirements. The width of such streets in new subdivisions shall not be less than the minimum street widths established herein.

4. Half Streets. Whenever there exists a dedicated or platted half street or alley adjacent to the tract to be subdivided the other half of the street or alley shall be platted. If a half street is platted, an easement for the remaining half must be obtained and recorded, and included in the plat.

5. Alleys: Residential. Alleys in residential areas shall not be established except where deemed necessary and recommended by the plan commission. Where permitted, the minimum width of an alley in a residential area shall be twenty (20) feet.

6. Alleys: Commercial and Industrial. Alleys shall be required in the rear of all commercial and industrial districts and shall be at least twenty (20) feet wide, the provision is made for service access or where the uses proposed for the particular area do not require access by alley.

7. Easements. Where alleys are not provided, easements of not less than ten (10) feet in width shall be provided on each side of all rear lot lines and side lines where necessary for poles, wires, conduits, storm and sanitary sewers, gas and water mains. Easements of greater width may be required along lines or across lots where necessary for the extension of main sewers and similar utilities.

8. Naming and Numbering of Streets. Whenever feasible, streets and avenues shall be numbered in accordance with the present numbering system. Streets that are obviously in alignment with others already existing and named shall bear the name of the existing street. Otherwise, names shall not duplicate existing street names, and names similar to existing street names shall not be permitted.

9. Width: Minor Streets. The minimum width for minor streets shall be fifty (50) feet, except that the plan commission may in certain cases because of topography or special conditions, require a street of greater or less width.

10. Width: Arterial Streets. The width for arterial streets and projected arterial streets shall be determined by the plan commission, subject to approval of the council, or by the council.

6-5.0302 BLOCKS.

The following requirements pertaining to blocks shall be followed by all subdividers when blocks are proposed:

(Code of Iowa, 1973, Sec. 409.4)

1. Length. No block shall be longer than one thousand (1000) feet between street lines.

2. Width. The width of blocks, except for special reasons, shall not be less than two hundred twenty (220) feet and not more than three hundred fifty (350) feet.

3. Crosswalks. An easement, not less than ten (10) feet wide, near the center of a block over seven hundred fifty (750) feet in length may be required for a crosswalk.

6-5.0303 LOTS.

The following requirements pertaining to lots shall be followed by all subdividers.

(Code of Iowa, 1973, Sec. 409.4 through .6)

1. Future Subdivision. Whenever the area is divided into lots containing one to three acres, inclusive, and there are indications that such lots will eventually be resubdivided into small building lots, consideration shall be given to the street and lot arrangement of the original subdivision so that additional minor streets can be opened which will permit a logical arrangement of smaller lots. Easements provided for the future opening and extension of such streets, may, at the discretion of the council, be made a requirement of the plat.

2. Subdividing of Lots in Relation to Streets. Where it is desirable to subdivide a parcel of land, which because of its size or location, does not permit an allotment directly related to a normal street arrangement, there may be established a "Place". Such a "Place" may be in the form of a court, a nonconnecting street or other arrangement, provided, however, that proper access shall be given to all lots from a dedicated place (streets or court) and the minimum size of each allotment of this sort shall be permanently established so as to insure a building arrangement commensurate with the requirements for the customary forms of subdivision of land.

3. Minimum Area. The minimum area of lots, except in areas zoned for commercial and industrial uses, shall be five thousand (5000) square feet.

4. Side Lines. All side lines of lots shall be as near as possible at right angles to straight street lines, or radial to curved street lines, unless a variation to this rule will give a better street and lot plan.

5. Corner Lots. Corner lots shall have extra width maintenance of building lines on both front and side streets. They shall have a radius of not less than fifteen (15) feet at the street corner. On commercial or industrial lots, a cut off or chord may be substituted for the circular arc.

6. Double Frontage. Lots with double frontage shall be avoided.

7. Width of Lots. Each lot shall not be less than fifty (50) feet in width.

6-5.0304 BUILDING LINES.

Building lines shall be shown on all lots whenever the depth of such building lines are greater than those required by the zoning code. The council may require building lines in accordance with the needs of each subdivision. Provision shall be made by deed requiring all enclosed parts of buildings to be set back to such building lines.

6-5.0305 CHARACTER OF DEVELOPMENT.

The council shall have the right to agree with the subdivider regarding the type and character of development that will be permitted in the subdivision, and may require that certain minimum regulations regarding this matter be incorporated in the deed restrictions. Such regulations shall be intended to protect the character and value of the surrounding development in the property which is subdivided.

6-5.0306 RESPONSIBILITY ALONG STREAMS.

When any stream or important surface water course is located in an area that is being subdivided, the subdivider shall at his own expense make adequate provision for straightening or widening the channel so that it will properly carry the surface water.

(Code of Iowa, 1973, Sec. 409.14)

ARTICLE 4
IMPROVEMENTS REQUIRED

6-5.0401 INSTALLATION REQUIRED.

Before the final plat of any subdivided area shall be finally approved, the subdivider shall make and install the improvements described in this article. In lieu of final completion of the minimum improvements the subdivider may follow either of the following alternate methods:

(Code of Iowa, 1973, Sec. 409.14)

1. Subdivider Installation or Bond. The subdivider may complete the improvements in units of not less than either one block or of five hundred (500) feet in length and post a surety bond with the city, which bond shall insure the city that all of the remainder of the improvements will be completed by the subdivider within a certain period of time after the final approval of the plat. The form and type of bond shall be approved by the city attorney and the council. If the improvements are not completed within the specified time, the council may use the proceeds of the bond or any necessary portion thereof to complete same. Unless the council grants a longer period of time the bond shall state that improvements shall be completed within two years after final approval of the plan.

2. Assessment. To petition the council to provide the necessary improvements and to assess the cost thereof against the subdivided property in accordance with the local requirements regarding special assessments. Provided however, the subdivider shall be responsible for and shall post a bond as required in subsection 1 of this section for any differences between the cost of the improvements and the amount that can be legally assessed by the city against the subdivided property and shall furnish the necessary waivers to permit the assessment of the entire cost of the improvement.

6-5.0402 SEWERS.

The subdivider shall provide the subdivision with sewage facilities in accordance with the following:

(Code of Iowa, 1973, Sec. 409.14)

1. Sanitary Sewer. Where a public sanitary sewer is reasonably accessible, the subdivider shall connect or provide for the connection with such sanitary sewer, and shall provide within the subdivision the sanitary sewer system required to make the sewer accessible to each lot in his subdivision. Sewer systems shall be in accordance with the State Department of Health Regulations and be built under the supervision of the city engineer.

2. Storm Sewer. Adequate provision shall be made for the disposal of storm water, subject to the approval of the plan commission and the council.

6-5.0403 WATER LINES.

Where an approved public water supply is reasonably accessible or procurable, the city shall install, or order installed the necessary water mains, fire hydrants, and laterals to lot line in accordance with the following terms:

(Code of Iowa, 1973, Sec. 409.14)

1. Contract. The contracts for installing the water lines shall be let by the council only after bids have been received from at least three contractors. The subdivider, if qualified, may bid for the contract.

2. City's Cost. Where an 8" main is ordered installed by the council, the city shall pay the difference between the material cost of the 6" pipe and 8" pipe.

3. Subdivider's Cost. The entire cost of installation of the lines, except for the difference in cost between 6" and 8" pipe, as herein above mentioned, shall be paid by the subdivider.

4. Exceptions. This section is a guide to residential developments or subdivisions. Each extension of water service will be assessed on its own individual merits and/or conditions.

6-5.0404 SIDEWALKS.

When drainage structures, curbs and necessary connecting drains are installed by the subdivider, pursuant to this article, sidewalks shall be constructed to a minimum width of four (4) feet and shall be placed a minimum distance from the back of the curb of three and one-half (3 1/2) feet. The grade and location of all permanent walks shall be constructed to the city standards as to location, construction and materials.

(Code of Iowa, 1973, Sec. 409.14)

6-5.0405 STREETS.

All streets shall be filled or excavated to the grade established by the town council, depending upon the location of the subdivision, and the roadway improved by surfacing. The minimum standards for surfacing shall not be less than the following requirements:

(Code of Iowa, 1973, Sec. 409.14)

1. Minimum Width. The minimum width of surfacing of streets shall be thirty (30) feet.

2. Half Widths. The subdivider shall be required to install only one-half the width of surfacing herein required when a street along the outer edge of his subdivision borders adjacent property that cannot bear its share of the cost of surfacing.

3. Curbs and Drainage. Curbs and drainage structures and necessary connecting drains shall be required

along each side of the surfacing whenever a storm sewer outlet is reasonably accessible to the area proposed for subdivision. In order to prevent serious erosion because of the grade of the street, the plan commission may require curb and drainage structures and necessary connecting drains to be constructed regardless of whether a storm sewer outlet is reasonably accessible or not.

4. Width of Surface. When curb and drainage structures are required, the minimum width of surfacing shall be thirty-one (31) feet for streets. Curbs and drainage structures shall be in accordance with city specifications as established by the council.

5. Collectors and Main Thoroughfares. Where streets are so located and used as to come under the definition of collector streets, primary thoroughfares and secondary thoroughfares, in the opinion of the plan commission and council, the width of surfacing and type of surfacing shall be as established by the plan commission, subject to approval of the council, or by the council.

6. Grades. Unless otherwise designated by the city engineer, streets shall be graded no flatter than a minimum grade of 0.5% and no steeper than a maximum grade of 6%.

7. The minimum standard for surfacing of streets shall require that such street be double seal coated. The surfacing of the streets shall be reviewed, inspected, and approved by the public works director.

(Ord. 373, 2001)

6-5.0406 MONUMENTS.

Monuments shall be placed at all corners and angle points of the external boundaries of a subdivision, but no further than one quarter ($\frac{1}{4}$) mile apart. Unless otherwise specified by the city engineer, the monuments shall be iron rods or pipes at least thirty (30) inches long and two (2) inches in diameter. Solid round or square iron bars of equal or greater length may be used in lieu of pipes wherever pipes are specified in this section. These monuments shall be placed not more than one-quarter ($\frac{1}{4}$) mile apart in any straight line and at corners, at each

end of all curves, at the pint where a curve changes its radius, and at all angle points in any line where such corners or points are one hundred (100) feet or more apart.

CHAPTER 6 - BILLBOARDS

6-6.01 PERMIT REQUIRED.

It shall be unlawful to construct or maintain or cause to be constructed or maintained any billboard without first securing a permit therefore, from the mayor and strictly complying with the provisions of this chapter.

6-6.02 EXCEPTION.

This ordinance shall not apply to billboards or signboards attached to the surface of a permanent building or designed to give publicity to any business carried on in such building, or to billboards used to advertise the sale or lease of the property upon which they shall be erected and not exceeding thirty-six square feet in area.

6-6.03 PERMIT FEE.

The permit fee for each and every billboard shall be an annual fee of twenty cents for each space twenty-four inches by thirty-eight inches or major fraction thereof. All licenses shall be due and payable on the first day of July of each year, for all billboards hereafter constructed, the license shall be a pro rata of the regular license to the succeeding first day of July.

6-6.04 SURETY BOND REQUIRED.

Every person engaged in the business of constructing and maintaining billboards shall file with the clerk a bond with surety to be approved by the mayor in the sum of five thousand (\$5,000.00) dollars conditioned that such person shall hold the city free from all damages, loss, expense or costs which may be secured against the city on account of the construction or maintenance of any billboard.

6-6.05 CONSTRUCTION STANDARDS.

It shall be unlawful to construct or maintain, or cause to be constructed or maintained, any billboard in such a manner as to:

1. Obstruct the free use of the streets, alleys, or sidewalks.
2. Be dangerous to the public by falling or by blowing down.
3. Unable to stand a pressure of at least forty pounds per square foot of advertising space.
4. Exceed five hundred (500) square feet in area.
5. Obstruct the view of railroad crossings or street crossings.
6. Other than of fire proof construction.
7. Increase the danger or loss by fire or to increase the rate for fire insurance.
8. Less than three feet in height above the ground.
9. Exceed sixteen feet in height above the ground.

Approach nearer than six feet to any building or to the side line of any lot, or nearer than two feet to any billboard.

6-6.06 LOCATION IN RESIDENTIAL AREA PROHIBITED.

It shall be unlawful to construct or maintain any billboard in any location in which one-half of the buildings on both sides of the street are used exclusively for residence purposes without first obtaining the consent in writing of the owners, or duly authorized agents of said owners, owning a majority of the frontage of the property on both sides of the street in the block in which such billboard is to be constructed or maintained. Such written consent shall be filed with the mayor before a license shall be granted for such location. The term "block", used in this section, means that part of a street which lies

between the two nearest intersecting streets, one on either side thereof.

6-6.07 OWNER'S NAME ON BILLBOARD.

The name of the person or corporation owning or controlling each billboard shall be placed and maintained on such billboard or signboard so as to be easily read.

6-6.08 LOCATION OF BILLBOARDS.

Every person maintaining a billboard for the purpose of displaying advertising shall file with the mayor a full and complete report of the location, size, and construction of all existing billboards.

CHAPTER 7 - ZONING CODE

ARTICLE 1
GENERAL PROVISIONS

6-7.0101 TITLE.

This chapter shall be known and may be cited as the Buffalo Zoning Code.

(Code of Iowa, 1973, C. 414)

6-7.0102 DEFINITIONS.

For use in this chapter the following terms and words are defined:

1. "Accessory Use or Building": shall mean or structure subordinate to the principal use of a building or land on the same lot or parcel of ground and serving a purpose customarily incidental to the use of the principal building or use of land.

2. "Apartment": shall mean a room or suite of rooms used as a dwelling of a family, including bath and culinary accommodations, located in a building in which there are three or more such rooms or suites.

3. "Apartment House": shall mean a building arranged, intended, or designed to be occupied by three or more families living independently of each other.

4. "Alterations, Structural": shall mean any change in the supporting members of a building such as bearing walls, columns, beams, or girders.

5. "Basement": shall mean a story having part but not more than one-half of its height below grade. A basement is counted as a story for the house height regulation.

6. "Board": shall mean the city board of adjustment.

7. "Boarding House": shall mean a building other than a hotel where, for compensation and by arrangement, meals or lodging and meals are provided for three (3) more persons.

8. "Building (Structure)": shall mean anything constructed, erected, or built, the use of which requires more or less permanent location on the ground and designed for the support, enclosure, shelter or protection of persons, animals, chattels, or property of any kind. When a structure is divided into separate parts by unpierced walls extending from the ground up, each part is deemed a separate building.

9. "Building, Height of": shall mean the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

10. "Cellar": shall mean a story having more than one-half (1/2) of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

11. "Commission": shall mean the Planning and Zoning Commission of the city.

12. "District": shall mean a section or sections of the city for which the regulations governing the use of buildings and premises, the height of buildings, the sizes of yards and the intensity of use are uniform.

13. "Dwelling": shall mean any building or portion there-of which is designed for and used exclusively for residential purposes.

14. "Dwelling, Single-Family": shall mean a building designed for or occupied by one (1) family.

15. "Dwelling, Two-Family": shall mean a building designed for or occupied exclusively by two (2) families.

16. "Dwelling, Multiple": shall mean a building designed for or occupied exclusively by more than two (2) families.

17. "Family": shall mean one or more persons occupying a premises and living as a single housekeeping unit, whether or not related to each other by birth or marriage, but no unrelated group shall consist of more than five (5) persons.

18. "Farming": shall mean the operating of an area for one or more of the farm uses with the necessary accessory uses for treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the normal farming activities and such accessory uses do not include the feeding of garbage or offal to swine or other animals, or commercial feeding of animals or poultry in confined lots or buildings.

19. "Filling Station": shall mean any building or premises used for the dispensing, sale or offering for sale at retail of any automobile fuels or oils. When the dispensing, sale, or offering for sale is incidental to the conduct of a public garage, the premises are classified as a public garage.

20. "Frontage": shall mean all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or if the street is dead ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

21. "Garage, Private": shall mean an accessory building designed or used for the storage of not more than four (4) motor-driven vehicles owned and used by the occupants of the building to which it is accessory. Not more than one (1) of the vehicles may be a commercial vehicle of not more than five (5) ton capacity.

22. "Garage, Public": shall mean a building or portion thereof, other than a private or storage garage, designed or used for equipping, servicing, repairing, hiring, selling, or storing motor driven vehicles.

23. "Garage, Storage": shall mean a building or portion thereof, designed or used for the storage of motor driven vehicles, other than trucks and commercial vehicles, pursuant to previous arrangements and not to transients, and at which automobile fuels and oils are not sold and motor driven vehicles are not equipped, repaired hired or sold.

24. "Wall Adjoining the Street": shall mean any wall approximately parallel to and not more than five (5) feet from a street line.

25. "Group or Row House": shall mean a group of two (2) or more but not exceeding four (4) single-family dwellings separated by walls without openings, not more than two (2) rooms deep.

26. "Home Occupation": shall mean an occupation or a profession which:

A. Is customarily carried on in a dwelling unit.

B. Is carried on by a member of the immediate family residing in the dwelling unit.

C. Is clearly incidental and secondary to the use of the dwelling unit for residential purposes.

D. No person is employed other than a member of the immediate family residing on the premises.

E. Has no exterior display, no exterior storage of materials and no other exterior indication of the home occupation or variation from the residential character of the principal building.

F. No mechanical equipment is used except such as is permissible for purely domestic or household purposes.

G. Has no more than one (1) exterior sign mounted flush with the face of the building, which sign shall not exceed one (1) square feet in area, except as provided Section 6-7.0207 and 6-7.0208.

H. Produces no offensive noise, vibration, smoke, dust, odors, heat, or glare rendering such building or premises objectionable or detrimental to the residential character of the neighborhood.

I. There is no commodity sold upon the premises.

27. "Hotel": shall mean a building in which lodging is provided and offered to the public for compensation, and which is open to transient guests, in contradistinction to a boarding house or lodging house.

28. "Institution": shall mean a building occupied by a non-profit corporation or a non-profit establishment for public use.

29. "Lodging House": shall mean a building or place where lodging is provided (or which is equipped regularly to provide lodging) by pre-arrangement for definite period, for compensation, for three (3) or more, but not exceeding twelve (12) individuals, not open to transient guests, in contradistinction to hotels open to transients.

30. "Lot": shall mean a parcel of land occupied or intended for occupancy by one main building together with its accessory buildings officially approved and having its principal frontage upon a dedicated street. The boundaries of the lot shall be determined by its lot lines.

31. "Lot, Corner": shall mean a lot abutting upon two (2) or more streets at their intersections.

32. "Lot, Depth of": shall mean the horizontal distance between the front and rear lot lines.

33. "Lot, Double Frontage": shall mean a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.

34. "Lot, Interior": shall mean a lot other than a corner lot.

35. "Lot of Record": shall mean a lot which is part of a subdivision, the map of which has been recorded in the office of the county recorder.

36. "Motel": shall mean a building in which lodging or boarding and lodging are provided and offered to the public for compensation. As such it is open to the public in contradistinction to a boarding house, a lodging house, or an apartment house which are herein separately defined.

37. "Nursing Home": shall mean a home for the aged, infirmed chronically ill or incurable persons in which three (3) or more persons not of the immediate family are received, kept and provided with food, or shelter and care, for compensation, but not including hospitals, clinics, similar institutions devoted primarily to the diagnosis, treatment or care of the sick or injured.

38. "Parking Space": shall mean a surfaced area, enclosed in the main building, or many accessory building unenclosed having an area of not less than one hundred and forty (140) feet exclusive of driveways, permanently reserved for the temporary storage of one automobile and connected with a street or alley by a surfaced driveway which affords satisfactory ingress and egress for automobiles.

39. "Place": shall mean an open unoccupied space or a public or private thoroughfare other than a street or alley permanently reserved as the principal means of access to abutting property.

40. "Rooming House": See Lodging House.

41. "Service Establishments": shall mean a shop or activity where materials or objects are treated or repaired and where objects may be sold, such as a shop for repairing shoes, but it shall not include any establishment when large objects or large quantities of material, are assembled and treated such as a garage or plumbing shop.

42. "Street": shall mean all property dedicated or intended for public or private street, highway, freeway, or roadway purposes or subject to public easements therefor.

43. "Story": shall mean that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it or, if there be no floor above it, then the space between the floor and the ceiling next above it.

44. "Story-Half": shall mean a space under a sloping roof which has the line of intersection of roof decking and wall face not more than three (3) feet above the top floor level, and in which space not more than sixty (60) percent of the floor area is finished off for use. A half story may be used for occupancy only in conjunction with and by the occupancy of the floor immediately below.

45. "Structure": anything constructed or erected, the use of which requires permanent location of the ground or attached to something having a permanent location of the ground, including but without limiting the generality of the foregoing, advertising signs, billboards, backstops for tennis courts, and pergolas.

46. "Structural Alterations": shall mean any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders or any substantial change in the roof or in the exterior walls.

47. "Trailer": shall mean any structure used for living, sleeping, business or storage purposes, having no foundation other than wheels, blocks, skids, jacks, horses, or skirtings and which is, has been or reasonably

may be, equipped with wheels or other devices for transporting the structure from place to place, whether by motive power or other means. The term "trailer" shall include camp car and house car.

48. "Trailer Camp or Tourist Camp": shall mean an area providing spaces for two or more travel trailers, camping trailers, or tent sites for temporary occupancy with the necessary incidental services, sanitation and recreation facilities to serve the traveling public.

49. "Yard": shall mean an open space between a building and the adjoining lot lines unoccupied and unobstructed by any portion of a structure from thirty (30) inches above the ground upward except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard, or the depth of a rear yard, the minimum horizontal distance between the lot lines and the main building shall be used.

50. "Yard, Front": shall mean a yard extending across the front of a lot and being the minimum horizontal distance between the street or place line and the main building or any projection thereof, other than the projection of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its greatest dimension.

51. "Yard, Rear": shall mean a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, unenclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

52. "Yard, Side": shall mean a yard between the main building and the side line of the lot and extending from the front lot line to the rear yard line and being the minimum horizontal distance between a side lot line and the side of the main building or tiny projection thereto.

6-7.0103 CHANGES AND AMENDMENTS.

The regulations imposed and the districts created by this chapter may be amended from time to time by the council, but no such amendments shall be made without public hearing before the council and after a report has been made upon the amendment by the commission. At least fifteen (15) days notice of the time and place of such hearing shall be published in a newspaper having general circulation in the city. In case the commission does not approve the change, or, in the case of a protest filed with the clerk against a change in district boundaries signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change or of those immediately adjacent thereto and within two hundred (200) feet of the boundaries thereof, or of those directly opposite thereto, extending the depth of one (1) lot or not to exceed two hundred (200) feet from the street frontage of such opposite lots. Such amendment shall not be passed except by the favorable vote of three-fourths ($\frac{3}{4}$) of all the members of the council.

(Code of Iowa, 1973, Sec. 414.5)

6-7.0104 APPLICATION FOR CHANGE IN ZONING DISTRICT BOUNDARIES.

Any person may submit to the council an application requesting a change in zoning district boundaries as shown on the official zoning map. Such application shall be filed with the enforcement officer and accompanied by a down payment of one hundred fifty dollars (\$150.00). The one hundred dollar (\$150.00) down payment shall reimburse the city for the cost of meetings, administrative cost, attorney's fees, engineering fees, and newspaper publishing expenses. After applying the one hundred fifty dollars (\$150.00) down payment to the costs incurred by the city, any excess funds remaining shall be returned to the applicant. If the costs are more than five hundred dollars (\$150.00), the balance must be paid in full before the final decision is given. The application shall contain the following information:

(Code of Iowa, 1973, Sec. 424.4)

1. Location. The legal description and address of the property.

2. Zoning Classifications. The present zoning classification and the zoning classification requested for the property.

3. Use of Property. The existing use and proposed use of the property.

4. Owners of Adjacent Property. The names and addresses the owners of all property within two hundred (200) feet to the property for which the change is requested.

5. Reason for Change. A statement of the reasons why the applicant feels the present zoning classification is no longer valid.

6. Plat. A plat showing the location, dimensions and use of the applicant's property within two hundred (200) feet thereof, including streets, alleys, railroads, and other physical features.

(Ord. 386 (part), 2004)

6-7.0105 FEE NON-REFUNDABLE.

Failure to approve the requested change shall not be deemed cause to refund the fee to the applicant.

6-7.0106 SPECIAL EXEMPTION.

The regulations and requirements established by this code are not to apply to land, farm houses, farm barns, farm outbuildings, or other structures or erections used primarily for farming purposes as herein defined, provided that this exemption shall apply only as long as the land and structures mentioned in this section continue to be used primarily for farming purposes.

(Code of Iowa, 1973, Sec. 414.4)

6-7.0107 STREET NUMBERS.

Every new residence or commercial establishment built on any property in the city subsequent to August 4, 1969 shall receive a street number to be assigned by the enforcement officer in accordance with the present numbering system.

ARTICLE 2
ADMINISTRATION

6-7.0201 ZONING ENFORCEMENT OFFICER: APPOINTMENT.

A zoning enforcement officer hereinafter referred to as the enforcement officer, designated by the council shall administer and enforce this chapter. He may be provided with the assistance of such other persons as the council may direct.

(Code of Iowa, 1975, Sec. 372.13)

6-7.0202 ENFORCEMENT.

If the enforcement officer shall find that any of the provisions of this chapter are being violated, he shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this chapter to insure compliance with or to prevent violation of its provisions.

(Code of Iowa, 1975, Sec. 372.13)

6-7.0203 APPEALS FROM DECISION.

Appeals from any decision of the enforcement officer may be taken to the board of adjustment as provided in Section 6-7.0213.

(Code of Iowa, 1973, Sec. 414.10)

6-7.0204 INTERPRETATION OF PROVISIONS.

In their interpretation and application, the provisions of this code shall be held to be minimum requirements, adopted for the promotion and protection of the public health, safety, morals, and general welfare. Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

(Code of Iowa, 1973, Sec. 414.1)

6-7.0205 SEPARATE OFFENSES MAY BE CHARGED.

The owners or tenant of any building, structure, land or part thereof and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains a violation may each be charged with a separate offense.

6-7.0206 INJUNCTION, MANDAMUS.

If any building or structure is erected, constructed, reconstructed, altered, repaired, or land is used in violation of this chapter, the city may, in addition to other remedies, institute injunction, mandamus, or other appropriate lawful action necessary to prevent, correct or abate such violation.

(Code of Iowa, 1973, Sec. 414.20)

6-7.0207 PERMITS.

Written permits shall be applied for and issued in accordance with the following requirements:

(Code of Iowa, 1973, Sec. 414.4)

1. Requirement.

A written permit shall be obtained from the enforcement officer for the following:

A. Excavation for or building of any foundation.

B. The erection, construction, enlargement, altering or moving of any building or structure.

C. Changing the use of any building, structure or load from one classification to another.

D. Changing from a non-conforming use to another.

E. Advertising signs and billboards, concrete stone or masonry wells and fences which obstruct vision.

F. Any fence or similar structure installed along or adjacent to property lot lines which partially or completely encloses the property.

(Ord. 271, Sec. 1 (1), 1990)

2. Coverage. Each permit issued for a main building shall also cover any accessory building constructed at the same time.

3. Application. The application for each permit shall be submitted to the enforcement officer in accordance with the following:

A. The application shall be on an approval form which shall include a description of the land, including the size of lot, the owner, the location of buildings and structure, contractor or builder, proposed use and such information as may be required by the enforcement officer for proper enforcement of the zoning code.

B. Each application shall be accompanied by plat or print thereof drawn to scale showing the actual dimensions of the lot to be built upon, the size, shape, and location of the buildings to be erected, the size, shape and location of any existing buildings and such other information as may be necessary for the enforcement of this code.

C. The owner or possessor of any property who intends to install any fence or similar structure, as defined in Section 6-7.0207.1(F), shall be required to reasonably satisfy the enforcement officer that the fence or similar structure will be installed on the owner's or possessor's property, and that it will otherwise be installed in conformity with requirements contained in the Buffalo City Code. If the owner or possessor is unable or unwilling to demonstrate the location of the boundaries of his property to the reasonable satisfaction of the enforcement officer, as a condition of granting a building permit the officer may require the owner or possessor to so demonstrate the boundaries of the property by means of a survey prepared by a licensed land surveyor.

4. Valid Time Period. Any work or change in use authorized by permit but not started or made within ninety (90) days or suspended for ninety (90) days shall require a new permit.

5. Issuance or Denial. The enforcement officer shall issue or deny a permit with reasons in writing

within fifteen (15) days from the date of the acceptance of the application. In the event the permit or denial thereof is not issued within fifteen (15) days, the applicant may appeal directly to the board which shall order the issuance of the permit or denial thereof with reasons in writing.

6. Fees. Permit fees shall be as follows:

A. Construction of a main building	\$10.00
B. Alteration, addition, incidental, or accessory building	\$2.00
C. Advertising sign or billboard with a minimum fee of	\$0.05/sq. ft. \$ 2.00
D. Placement of or addition to a fence or similar structure, as defined in Section 6-7.0207.1(F)	\$_____.

(Ord. 271, Sec. 1(3), 1990)

7. Collection of Fees. The permit fees shall be collected by the enforcement officer before issuing each permit and he shall account to the city for all fees collected.

8. Records. The enforcement officer shall maintain a file of all applications for permits, the accompanying plat and copies of permits issued in his office for ready public reference.

6-7.0208 SIGNS AND BILLBOARDS: REGULATION.

Advertising signs and billboards relating to the development, financing, sale, rental, or lease of a subdivision or part thereof are permitted, provided the signs or billboards shall not exceed 100 square feet in area and no higher than twelve feet above ground level. Such signs shall be removed from the premises as soon as the individual lot upon which the sign has been placed is sold, rented or leased. Such signs and billboards shall require permits in accordance with Section 6-7.0207.

6-7.0209 CERTIFICATE OF OCCUPANCY.

1. Requirement. Subsequent to August 10, 1969 no change in the house or occupancy of land, nor any change

of use or occupancy in an existing building shall be made, nor shall any new building be occupied for any purpose until a certificate of occupancy has been issued by the enforcement officer. Every certificate shall state that the new occupancy complies with all provisions of this code.

(Code of Iowa, 1973, Sec. 414.4)

2. Condition of Approval for Permits. No permit for excavation for, or the erection or alteration of, any building shall be issued before the application has been made and approved for a certificate of occupancy and no building or premises shall be occupied until that certificate and permit is issued.

(Code of Iowa, 1973, Sec. 414.4)

3. Records. A record of all certificates of occupancy shall be kept on file by the enforcement officer, and copies shall be furnished on request to any person having a proprietary or tenant interest in the land or in the building affected by such certificate of occupancy.

(Code of Iowa, 1973, Sec. 372.13)

6-7.0210 BOARD OF ADJUSTMENT.

There shall be a Board of Adjustment. The board shall consist of five (5) members to be appointed by the council for a term of five (5) years. The terms of not more than one third of the members will expire in any one year. Members of the board may be removed from office by the council for cause upon written charges and after public hearing. Vacancies shall be filled by the council for the unexpired term of the member.

(Code of Iowa, 1973, Sec. 414.7 and .8)

6-7.0211 PROCEEDINGS OF BOARD OF ADJUSTMENT.

The board shall adopt rules necessary to the conduct of its affairs, and in keeping with the provisions of this chapter. Meetings shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may compel attendance of witnesses. All meetings shall be open to the public.

(Code of Iowa, 1973, Sec. 414.9)

6-7.0212 RECORDS.

The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the board.

(Code of Iowa, 1973, Sec. 414.9)

6-7.0213 HEARINGS, APPEALS, NOTICE.

1. Right to Appeal. Appeal to the board concerning interpretation or administration of this chapter may be submitted by any person aggrieved or by any office or bureau of the city affected by a decision of the enforcement officer.

(Code of Iowa, 1973, Sec. 414.10)

2. File Notice of Appeal. Such appeals shall be filed with the enforcement officer and the board specifying the grounds for appeal. The enforcement officer shall, when in receipt of a notice of appeal, transmit to the board all papers constituting the record upon which the action appealed from was taken.

(Code of Iowa, 1973, Sec. 414.10)

3. Hearing Date and Notification. The board shall fix a reasonable time for the hearing of appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time.

(Code of Iowa, 1973, Sec. 414.10)

4. Representation. Any party may appear in person or by agent or attorney at the hearing.

5. Fees. A fee of fifteen (\$15) dollars shall be paid to the enforcement officer at the time the notice of appeal is filed.

6-7.0214 STAY OF PROCEEDINGS.

An appeal stays all proceedings in furtherance of the action appealed from, unless the enforcement officer from whom the appeal is taken certifies to the board after the notice of appeal is filed with him, that by reason of facts stated in the certificate, a stay would, in his

opinion, cause immanent peril to life and property. In such case, proceedings shall not be stayed other than by a restraining order which may be granted by the board or by a court of record on application, on notice to the enforcement officer from whom the appeal is taken and on due cause shown.

(Code of Iowa, 1973, Sec. 414.11)

6-7.0215 THE BOARD OF ADJUSTMENT: POWERS AND DUTIES.
The board shall have the following powers and duties:

1. Administrative Review. To hear and decide appeals where it is alleged that there is error in order, requirement decision, or determination made by the enforcement officer in the enforcement of this chapter.

(Code of Iowa, 1973, Sec. 414.12 [1])

2. Variances. When a property owner shows that a strict application of the terms of the zoning code relating to the use, construction, or alteration of buildings or structures, or to the use of land imposes upon him practical difficulties or particular hardships, then the board may make such variations of the strict application of the terms of the zoning code as are in harmony with its general purpose and intent when the board is satisfied, under the evidence heard before it, that a granting of such variation will not merely serve as a convenience to the applicant, but is necessary to alleviate some demonstrable hardship or difficulty so great as to warrant a variation in the following instances:

(Code of Iowa, 1973, Sec. 414.12)

A. To permit the extension of a district where the boundary line of a district divides a lot in the single ownership as shown on record, but such extensions of any district will not exceed one hundred (100) feet.

B. To permit the reconstruction of a non-conforming building which has been destroyed or damaged to an extent of more than sixty-five (65) percent of its value, by fire, or act of God, or the public enemy, where the board shall find some compelling public necessity requiring a continuation of the non-conforming use, but in no case

shall such permit be issued if its primary function is to continue a monopoly.

C. To permit the erection and use of a building or the use of premises in any location for a public service corporation for public utility purposes which the board deems reasonably necessary for the public convenience or welfare.

D. To make a variance where, by reason of an exceptional situation, surroundings, or condition of a specific piece of property, or by reason of exceptional narrowness, shallowness or shape of specified piece of property of record, or by reason of exceptional topographical conditions the strict application of any provision of the zoning code would result in peculiar and exceptional practical difficulties or particular hardships upon the owner of such property and amount to a practical confiscation of property as distinguished from a mere inconvenience to such owner, provided such relief can be granted without substantial detriment to the public good and without substantially impairing the general purpose and intent of the comprehensive plan as established by the regulations and provisions contained in the zoning code. The various decision of the board of adjustment must apply to the same party or person who originally applied for the variance. Such variance shall be valid for one (1) year after the date of the variance permit is granted.

E. To interpret the provisions of the zoning code where the street layout actually on the ground varies from the street layout as shown on the District Map fixing several districts.

F. To waive the parking requirements in the Business or Industrial Districts whenever the character or use of the building is such as to make unnecessary the full provision of parking facilities or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.

G. To permit land within two hundred (200) feet of a multiple dwelling to be improved for the parking spaces

required in connection with a multiple dwelling, but only when there is positive assurance that such land can be used for such purpose, during the existence of, and for the use of the occupants of, the multiple dwelling.

3. Special Permits. The board shall have authority to authorize the granting of a special permit in accordance with the conditions of this section.

4. Powers Limited. The powers of the board are limited to any and all powers allowed by the Code of Iowa, 1991, Section 414.12.

5. Appeals, Variances and Special Permits. Prior to considering all appeals and proposed special permits and variances to the ordinance codified in this chapter, a property owner shall submit to the city clerk a down payment in the amount of one hundred-fifty dollars (\$150.00). The down payment shall reimburse the city for the cost of meetings, administrative costs, engineering costs, legal fees, newspaper publishing costs. After applying the one hundred fifty dollar (\$150.00) down payment to the costs incurred by the city, any excess funds remaining shall be returned to the applicant or homeowner. If the costs exceed the one hundred fifty dollar (\$150.00) down payment, the balance must be paid in full before the final decision is given. In considering all appeals and proposed special permits and variances to this chapter, the board before making any specific permit variance or decision on appeal in a specific case, shall first determine:

A. That the granting of exception will not permit any use in any district which would be in conflict with the permitted uses of such district under the terms of this chapter;

B. That it will not impair an adequate supply of light and air to adjacent property;

C. That it will not unreasonably increase the congestion in public streets;

D. That it will not increase the danger of fire or of the public safety;

E. That it will not unreasonably diminish or impair established property values within the surrounding area;

F. That it will not in any other respect impair the public health, comfort, safety, morals or welfare of the inhabitants of the city.

(Ord. 424, 2008; Ord. 386 (part), 2004; Ord. 336, 1996;
Code of Iowa, 1991, Sec. 414.7)

6-7.0216 PUBLIC HEARING: NOTICE.

The board shall make no recommendation except in a specific case and after a public hearing conducted by the board. The board shall select a reasonable time and place for the hearing of the appeal and give due notice by letter thereof to the property owners within three hundred (300) feet in all directions exclusive of streets and alleys. Such notice shall contain the address or location of the property for which the variation or other ruling by the board is sought, as well as a brief description of the nature of the appeal.

Only certified letters with return receipt shall be mailed to all property owners within three hundred (300) feet in all directions, exclusive of streets and alleys, of a property where a variance has been requested. Person or business requesting a variance shall pay a fee of twenty-five dollars (\$25.00) in addition to a fee of three dollars (\$3.00) for each letter mailed to the above described area property owners, all of which must be paid to the city clerk's office prior to the mailing of the above described letters.

(Ord. 330, 1996)

6-7.0217 DECISIONS OF THE BOARD.

In exercising the above mentioned powers, the board may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made and to that end shall have powers of the officer from whom the appeal is taken. The concurring vote of three members of the board shall be necessary to reserve any order, requirement, decision or determination of the enforcement officer, or to decide in

favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in application of this chapter.

(Code of Iowa, 1973, Sec. 414.13)

6-7.0218 APPEALS FROM THE BOARD.

Any person, or any taxpayer, department, board or bureau of the city aggrieved by any decision of the board may seek review of such decision by a court of record in the manner provided by the laws of the state and particularly by Chapter 414, Code of Iowa, 1973.

(Code of Iowa, 1973, Sec. 414.15)

6-7.0219 NON-CONFORMING: SPECIAL PERMITS.

The board may, by special permit, after public hearing held by the board and advertising as provided in Section 6-7.0216 and subject to the protective restrictions set out in Section 6-7.0215(5), authorize the locations, construction, extension or structural alteration of any of the following buildings or uses or an increase in their height in any district from which they are prohibited or limited by this code.

(Code of Iowa, 1991, Sec. 414.12)

1. Any public building erected and used by any department of a municipal, county, state or federal government.

2. Hospitals, clinics and institutions, except institutions for criminals and those for persons who are mentally ill or have contagious diseases; provided, however, that such buildings may occupy not over fifty (50) percent of the total area of the lot or tract and will not have any serious and depreciating effect upon the value of the surrounding property; and, provided further, that the buildings shall be set back from all yard lines heretofore established an additional distance of not less than two (2) feet for each foot of building height and that adequate off-street parking space will be provided.

3. Cemetery or mausoleum.

4. Airport, landing field, or land strip.

5. Greenhouses, provided that any such structures shall not be less than one hundred (100) feet from all property lines.

6. Nurseries and truck gardens.

7. Riding stables.

8. Roadside stands, commercial amusement or recreational development for temporary or seasonal periods.

9. Extraction of gravel, sand, or other raw materials.

10. Parking lots on land not more than three hundred (300) feet from the boundary of any commercial, business or industrial district under such conditions as will protect the character of surrounding property.

11. Areas for the dumping or disposal of trash or garbage.

12. Radio towers and radio broadcasting stations.

13. Exhibitions and fair grounds.

14. Tourist camps and motor courts.

15. Any use that is not a nuisance per se and which is generally similar to the uses permitted in the district in which such use is located by special permit.

(Ord. 278 (part), 1991)

6-7.0220 (Repealed by Ord. 278, 1991.)

6-7.0221

The owner or owners of any tract of land comprising an area of not less than ten (10) acres may submit to the council a plan for the use and development of all of the tract of land for residential and allied purposes. The development plan shall be referred to the commission for study and report and for public hearing. If the commission approves the plan, they shall then be submitted to the council for consideration and action. The approval and

recommendations of the commission shall be accompanied by a report stating the reasons for approval of the application and specific evidence and facts showing that the proposed community unit plan meets the following conditions:

(Code of Iowa, 1973, Sec. 414.2)

1. That the property adjacent to the area included in the plan will not be adversely affected.

2. That the plan is consistent with the intent and purpose of this Code to promote public health, safety, morals, and general welfare.

3. That the buildings shall be used only for single-family dwellings, two-family dwellings and multiple dwellings, and the usual accessory uses such as garages, storage space, or community activities, including churches.

4. That the average lot area per family contained in the site, exclusive of the area occupied by streets, will not be less than the lot area per family required in the district in which the development is located. If the council approves the plans, building permits and certificates of occupancy may be issued even though the use of land and the location of the buildings to be erected in the area, and the yards and open spaces contemplated by the plan, do not conform in all respects to the district regulations of the district in which it is located.

ARTICLE 3 DISTRICT REGULATIONS

6-7.0301 ESTABLISHMENT OF DISTRICTS.

In order to classify, regulate and restrict the locations of trades, industries and the location of buildings designed for specified uses, to regulate and limit the height and bulk of buildings hereafter erected or structurally altered, to regulate and limit the intensity and use of the lot areas and to regulate and determine the areas of yards, courts and open spaces within and surrounding such buildings, the city is divided into the following districts:

(Code of Iowa, 1973, Sec. 414.7)

- A. Country Home District
- B. Single-Family Dwelling District
- C. Two-Family Dwelling District
- D. Multiple-Family Dwelling District
- E. Local Business District
- F. Central Business District
- G. Light Industrial District
- H. Heavy Industrial District

The location and boundaries of these districts are shown on the official district map.

6-7.0302 DISTRICT MAP.

The boundaries of the districts are shown upon the map which is made part of this code, the map is designated as the "District Map". The district map and all the notations, references, and other information shown thereon are a part of this code and have the same force and effect as in the district map and all the notations, references and other information shown thereon were all fully set forth or described herein, the original of the district map is properly attested and is on file with the clerk.

6-7.0303 NEWLY ACQUIRED LAND.

Territory which may hereafter be annexed to the city shall be considered as being the "A" Country Home District unless otherwise changed by ordinance.

6-7.0304 VACATED PUBLIC WAYS.

Whenever any street, alley, other public way is vacated by official action of the Council of the Town of Buffalo, the zoning district adjoining each side of such street, alley, or public way shall be automatically extended to the center of such vacation and all area included in the vacation shall then and henceforth be sub-

ject to all appropriate regulations of the extended districts.

6-7.0305 INTERPRETATION OR DISTRICT BOUNDARIES.

Where uncertainty exists with respect to the boundaries of the various districts as shown on the map accompanying and made part of this code, the following rules apply:

(Code of Iowa, 1973, Sec. 414.4)

1. Public Ways. The district boundaries are either streets or alleys unless otherwise shown, and where the districts designated on the map accompanying and made part of the code are bounded approximately by street or alley lines, the street or alley shall be construed to be the boundary of the district.

2. Plotted Lot Lines. Where the district boundaries are not otherwise indicated, and where the property has been or may hereafter be divided into blocks and lots, the district boundaries shall be construed to be the lot lines, and where the districts designated on the map accompanying and made a part of this code are bounded approximately by lot lines, the lot lines shall be construed to be the boundary of the districts, unless the boundaries are otherwise indicated on the map.

3. Scale. In subdivided property the district boundary lines on the accompanying and made a part of this code shall be determined by use of the scale appearing on the map.

6-7.0306 DISTRICT REGULATIONS.

Except as hereinafter provided:

(Code of Iowa, 1973, Sec. 414.4)

1. Use. No building shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building on land be used for a purpose permitted in the district in which the building or land is located.

2. Height. No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed

the height limit herein established for the district in which the building is located.

3. Conform to Area Regulations. No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which the building is located.

4. Yards and Open Spaces. The minimum yards and other open spaces, including lot area per family, required by this code for each and every building existing on August 4, 1969 or for any building hereafter erected shall not be encroached upon or considered as yard or open space requirement for any other building.

5. Buildings: Location and Number. Every building hereafter erected or structurally altered shall be located on a lot as herein defined and in no case shall there be more than one (1) main building on one (1) lot unless otherwise provided in this code.

6-7.0307 "A" COUNTRY HOME DISTRICT REGULATIONS.

The regulations set forth in this section or set forth elsewhere in this code when referred to in this section are the district regulations in the "A" Country Home District.

(Code of Iowa, 1973, Sec. 414.2)

1. Use Regulations. A building or premises shall be used only for the following purposes:

A. Single family dwellings.

B. Churches, but only where off-street parking space is provided upon the lot upon adjoining property which space is adequate to accommodate one car for every eight (8) persons for which seating is provided in the main auditorium of the church and exclusive of the seating capacity of Sunday School or other special rooms.

C. Farms, including the usual farm buildings and the sale of seasonal products grown only on the premises.

D. Public schools, elementary and high, and private educational institutions having a curriculum equal to a public elementary or public high school and having no rooms regularly used for housing or sleeping purposes except such quarters as are necessary for custodians.

E. Golf courses, except miniature courses or practice driving tees operating for commercial purposes.

F. Public parks and public playgrounds.

G. Forest and nurseries, but the location, type, and character of the facilities used for disposing of the products grown only upon the premises shall be subject to the board.

H. Home occupations where no name plate is used, in connection with said use, which exceed two (2) square feet in area.

I. Accessory buildings and accessory uses customarily incident to the above uses, not involving the conduct of a business, including farm buildings and one private garage and one private stable. Any accessory building that is not a part of the main structure shall be located not less than sixty (60) feet from the front lot line. Accessory buildings shall also include church or similar bulletin boards, and signs, not exceeding ten (10) square feet in area appertaining to the lease, hire or sale of a building or premises, or the sale of products grown only on the premises, which boards and signs shall be removed as soon as the premises or lease are sold, and provided further that not more than one (1) sign of the above character shall be permitted upon any lot, except for the display of construction signs during the time the job is under construction.

J. A greenhouse erected as accessory building, provided that the use of the greenhouse does not result in retail sales from the premises.

2. Height Regulations: No building hereafter erected or altered shall exceed two and one-half (2 1/2)

stories or shall it exceed forty (40) feet in height except as provided in Sections 6-7.0106 and 6-7.0107.

3. Area Regulations.

A. Front Yard.

(1) There shall be a front yard having a depth of not less than fifty (50) feet, unless thirty (30) percent or more of the frontage on the same side of the street between two intersecting streets is improved with buildings that have observed a greater or less depth of front yard in which instance no new buildings or portion thereof shall project beyond a straight line drawn between the point closest to the street line of the residence upon either side of the proposed structure or, if there be residences only upon one side, then beyond the straight line projected from the front of the two nearest residences but this regulation shall not be interpreted to require a front yard of more than one hundred (100) feet. Where the street is curved the line shall follow the curve of street rather than to be a straight line.

(2) Where lots have a double frontage, the required front yard shall be provided on both streets.

(3) On a corner lot there shall be a front yard on each street side of such lot, except that the buildable width of such lot shall not be reduced to less than forty (40) feet. No accessory building shall project beyond the front yard line of either street.

B. Side Yard. There shall be a side yard on each side of a building having a width of not less than twelve (12) feet except as provided in Section 6-7.0106, and except that wherever a lot of record existing on August 4, 1969 has a width of seventy-five (75) feet or less, the side yard on each side of a building may be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instance shall it be less than five (5) feet.

C. Rear Yard. Except as provided in Section 6-7.0106, there shall be a rear yard having a depth of not

less than forty (40) feet or twenty (20) percent of the depth of the lot whichever amount is larger, but it need not exceed fifty (50) feet.

D. Intensity of Use. Every lot or tract of land upon which a single-family dwelling is erected shall have an area of not less than twenty thousand (20,000) square feet and an average width of not less than one hundred (100) feet, except that if a lot or tract has less area or width than herein required and was legally platted and was of record on August 4, 1969 that lot may be used for any of the uses permitted by this section.

6-7.0308 "B" SINGLE-FAMILY DWELLING REGULATIONS.

The regulations set forth in this section, or set forth elsewhere in this code when referred to in this section are the district regulations in the "B" Single-Family Dwelling Districts.

(Code of Iowa, 1973, Sec. 414.2)

1. Use Regulations. A building or premises shall be used only for the following purposes.

A. Single-Family Dwellings. A single-family dwelling shall contain a minimum floor area for living purposes of one thousand one hundred (1,100) square feet, and may have an attached or detached garage for two (2) or three (3) vehicles.

(Ord. 389 (part), 2004)

B. Parks, playgrounds and community buildings owned or operated by public agencies.

C. Public libraries.

D. Public schools, elementary and high, or private schools having a curriculum equivalent to a public elementary school or public high school, and having not rooms regularly used for housing or sleeping purposes, except such quarters as are needed for custodians.

E. Golf courses, except miniature courses and driving tees operating for commercial purposes.

F. Churches, but only when off-street parking space is provided upon the lot or adjoining property which space is adequate to accommodate one (1) car for every eight (8) persons for which seating is provided in the main auditorium of the church and exclusive of the seating capacity of Sunday School and other special rooms.

G. Accessory buildings. Accessory buildings including a private garage and accessory uses customarily incident to the above uses, not involving the conduct of a business and home occupations. Any accessory building that is not a part of the main structure shall be located not less than sixty (60) feet from the front lot line. Accessory buildings shall also include church or public building bulletin boards and temporary signs appertaining to the lease, hire or sale of a building or premises, not exceeding ten (10) square feet in area.

2. Height Regulations. No building shall exceed two and one-half (2-1/2) stories or shall it exceed thirty-five (35) feet in height except as provided in Sections 6-7.0106 and 6-7.0107.

3. Area Regulations.

A. Front Yard.

(1) There shall be a front yard having a depth of not less than thirty (30) feet, unless thirty (30) percent or more of the frontage on the same side of the street between two intersecting streets is improved with buildings that have observed a greater or less depth of front yard in which instance no new building or portion thereof shall project beyond a straight line drawn between the point closest to the street line of the residence upon either side of the proposed structure of, if there be residences upon only one side, then beyond the straight line projected from the front of the two nearest residences, but this regulation shall not be interpreted to require a front yard of more than seventy-five (75) feet. Where the street is curved the line shall follow the curve of the street rather than to be a straight line.

(2) Where lots have a double frontage, the required front yard shall be provided on both streets.

(3) Where a lot is located at the intersection of two or more streets there shall be a front yard on each street side of a corner lot, except that the buildable width of such lot shall not be reduced to less than thirty (30) feet. No accessory building shall project beyond the front yard line on either street.

B. Side Yard. There shall be a side yard on each side of a building having a width of not less than twelve feet (12) except as provided in Section 6-7.0106, and except that wherever a lot of record existing on August 4, 1969 has a width of fifty (50) feet or less, the side yard on each side of a building may be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instance shall it be less than four (4) feet.

C. Rear Yard. Except as hereinafter provided in Section 6-7.0106, there shall be a rear yard having a depth of not less than thirty (30) feet or twenty (20) percent of the depth of the lot, whichever amount is smaller.

D. Intensity of Use. Every lot or tract of land shall have an area of not less than seven thousand five hundred (7,500) square feet and a width of not less than seventy-five (75) feet, except that if a lot or tract has less area or width than herein required and was legally platted and was recorded at the time of the passage of this code, that lot or tract may be used for any of the uses permitted by this section.

(Ord. 366 § 1, 1999; Ord. 365 § 1, 1999)

6-7.0309 "C" TWO-FAMILY DWELLING REGULATIONS.

The regulations set forth in this section or set forth elsewhere in this code when referred to in this section are the "C" Two-Family District Regulations.

(Code of Iowa, 1973, Sec. 414.2)

1. Use Regulations. A building or premises shall be used only for the following purposes:

A. Any use permitted in the "B" Single-Family Dwelling District.

B. Two-Family Dwellings. Two-family dwellings shall have a minimum area of eight hundred (800) square feet per dwelling unit of living area and an attached or detached garage not to exceed three (3) vehicles.

(Ord. 389 (part), 2004)

C. Accessory buildings and uses customarily incidental to any of the above uses when located on the same lot and not involving the conduct of a business, including private garages when located not less than sixty (60) feet from the front lot line or a private garage constructed as a part of the main building.

2. Parking Regulations. Whenever a structure is erected, converted or structurally altered for a two-family dwelling, or whenever two (2) families reside in the structure for thirty (30) or more days, two (2) parking spaces shall be provided on the lot for each dwelling unit or family residing in the structure, or the number of vehicles owned by the residents shall be parked off the street and within the lot limits.

(Ord. 354, 1997: Ord. 337, 1996)

3. Height Regulations. No building shall exceed two and one-half (2½) stories or shall it exceed thirty-five (35) feet in height, except as provided in Sections 6-7.0106 and 6-7.0107.

4. Area Regulations.

A. Front Yard.

(1) There shall be a front yard having a depth of not less than twenty-five (25) feet, unless thirty (30) percent or more of the frontage on the same side of the street between two intersecting streets is improved with buildings that have observed a greater or less depth of front yard in which instance no new building or portion thereof shall project beyond a straight line drawn between the point closest to the street line of the residence upon either side of the proposed structure, or if there be

residences upon only one side, then beyond the straight line projected from the front of the two nearest residences, but this regulation shall not be interpreted to require a front yard of more than sixty (60) feet.

(2) Where lots have a double frontage, the required front yard shall be provided on both streets.

(3) Where a lot is located at the intersection of two or more streets, there shall be a front yard on each street side of the corner lot, except that the buildable width of such lot shall not be reduced to less than thirty-two (32) feet. No accessory building shall project beyond the front yard line on either street.

B. Side Yard.

(1) Except as hereinafter provided in the following paragraphing and in Section 6-7.0106, there shall be a side yard on each side of the building, having a width of not less than five (5) feet.

(2) Whenever a lot of record existing at the time of the passage of this code has a width of less than fifty (50) feet, the side yard on each side of a building may be reduced to a width of not less than ten (10) per cent of the width of the lot, but in no instance shall it be less than four (4) feet.

C. Rear Yard. Except as hereinafter provided in Section 6-7.0106, there shall be a rear yard having a depth of not less than thirty (30) feet or twenty (20) per cent of the depth of the lot, whichever amount is smaller.

D. Intensity of Use. Except as herein provided, every dwelling hereafter erected, enlarged, relocated, altered or reconstructed, shall be located upon lots containing the following areas:

(1) A lot on which there is erected a single-family dwelling shall contain an area of not less than seven thousand five hundred (7,500) square feet per family, and a width of not less than seventy-five (75) feet.

(2) A lot on which there is erected a two-family dwelling shall contain an area of not less than five thousand (5,000)square feet per family, and a width of not less than seventy-five (75) feet.

(3) Where a lot has less area or width than herein required and was legally platted and was of record at the time of the passage of this ordinance, that lot may be used only for single-family dwelling purposes or for a two-family dwelling if only the width is inadequate, or for any other non-dwelling purposes permitted in this article.

(Ord. 366 § 2, 1999; Ord. 365 § 2, 1999)

6-7.0310 "D" MULTIPLE DWELLING REGULATIONS.

The regulations set forth in this section or set forth elsewhere in this code when referred to in this section are the district regulations in the "D" Multiple Dwelling District.

(Code of Iowa, 1973, Sec. 414.2)

1. Use Regulations: A building or premises shall be used only for the following purposes:

A. Any use permitted in the "C" Two-Family Dwelling Districts.

B. Multiple Dwellings.

C. Group or row houses.

D. Boarding and lodging houses.

E. Institutions of a religious, educational, eleemosynary or philanthropic nature, but not penal or mental institutions.

F. Hospitals, and clinics, except animal hospitals, animal clinics or mental hospitals.

G. Fraternities, sororities, private clubs, and lodges, excepting those the chief activity of which is a service customarily carried on as a business.

H. Accessory buildings and uses customarily incident to any of the above uses, including storage garages, where the lot is occupied by a multiple dwelling, hospital, or institutional building. Any storage garage or accessory building that is not a part of the main building shall be located not less than sixty (60) feet from the lot line and not less than five (5) feet from any side lot line.

I. Nursing Homes.

2. Parking Regulations. The parking regulations for two-family dwellings are the same as those in the "C" Two-Family Dwelling Districts. Where a lot is occupied by a new or reconverted multiple dwelling, there shall be provided accessible parking space on the lot or adjoining property available to and adequate to accommodate one car for each dwelling unit in the multiple dwelling. Any other use that is constructed or reconstructed in conformity with the use regulations of the "D" Multiple Dwelling District shall provide adequate parking space either on the lot or within a reasonable distance thereof as approved by the commission.

3. Height Regulations. No buildings shall exceed six (6) stories or shall it exceed seventy-five (75) feet in height, except as provided in Section 6-7.0106 and 6-7.0107, but provided further that any building exceeding three (3) stories in height shall be set back from all yard lines required in subsection 4 of this section a distance of one (1) foot for every three (3) feet that the building exceeds a height of forty-five (45) feet.

4. Area Regulations.

A. Front Yard.

(1) Front yard regulations are the same as those in the "C" Two-Family Dwelling Districts.

(2) Where lots have a double frontage, the required front yard shall be provided on both streets.

(3) There shall be a front yard on each street side of a corner lot, except that the buildable width of such lot shall not be reduced to less than thirty-two (32) feet. No accessory building shall project beyond the front yard line on either street.

B. Side Yard.

(1) The side yard regulations for buildings not exceeding two and one-half (2 1/2) stories in height are the same as those in the "C" Two-Family Dwelling District.

(2) There shall be a side yard which shall have a width of not less than seven (7) feet on each side of three (3) story building.

C. Rear Yard. The rear yard regulations are the same as those in the "C" Two-Family Dwelling District.

D. Intensity of Use.

(1) A lot on which there is erected a single-family dwelling shall contain an area not less than seven thousand five hundred (7,500) square feet nor less than seventy-five (75) feet wide.

(2) A lot on which there is erected a two-family dwelling shall contain an area of not less than five thousand (5,000) square feet per family and shall not be less than seventy-five (75) feet wide.

(3) A lot upon which there is erected a multifamily dwelling shall contain an area of not less than one thousand (1,000) square feet per family, but in no case, shall the lot contain an area of less than seven thousand five hundred (7,500) square feet and be less than seventy-five (75) feet wide. Dormitories, fraternities and sororities where no cooking is done and individual rooms or apartments shall not be required to conform with the one thousand (1,000) square feet per family stipulation.

(4) Where a lot has less area or width than herein required and was of record at the time of the passage of this code, that lot may be used only for single-family

purposes or for any other non-dwelling uses permitted in this article unless only the width is inadequate, in which case the lot may be erected for two-family dwelling purposes.

(Ord. 366 § 3, 1999; Ord. 365 § 3, 1999)

6-7.0311 "E" LOCAL BUSINESS DISTRICT REGULATIONS.

The regulations set forth in this section or set forth elsewhere in this code when referred to in this section are the regulations in the "E" Local Business District Regulations.

(Code of Iowa, 1973, Sec. 414.2)

1. Use Regulations. A building or premises shall be used only for the following purposes:

A. Any use permitted in the "D" Multiple Family Dwelling Districts.

B. Bakeries

Bank

Barbershop or beauty shop

Business or commercial school

Catering establishment

Electric and shoe repair shops

Filling stations

Hospitals and clinics for animals, but not open kennels, or yards where animals are confined or exercised.

Interior decorating shop

Laundry or dry cleaning service establishment

Messenger or telegraph service stations

Office

Photograph gallery

Printing shops

Public garage, except that the repair or storage portion of such building shall not be less than thirty feet (30') from the front of the building, and no lot or portion thereof shall be used for the display of used cars, provided further that no public garage shall be within one hundred twenty-five feet (125') of the boundary of any residential district.

Restaurant

Storage garage

Sales or showroom

Store or shop for the conduct of a retail business

Store for the collection and distribution of laundry and dry cleaning articles, but not for the treatment, cleaning or processing of such articles.

Theater, except open-air drive-in theaters, provided, however, that no theater shall be erected or reconstructed unless there is provided on the same lot, or within three hundred feet (300') thereof, a space for off-street parking which contains an area adequate to accommodate one (1) automobile for every six (6) seats in the theater.

Tailor shop

Undertaking establishment

Used car sales or storage lots

Service establishments only when totally enclosed within the structure.

Welding shops

C. Accessory buildings and uses customarily incident to the above uses, including a sign or a bulletin

board relating only to services, articles and products offered within the building to which the sign is attached, and having an area of not more than thirty (30) square feet.

D. Any building used primarily for any of the above- enumerated purposes may have not more than forty (40) percent of the floor area devoted to industry or storage purposes incidental to such primary use.

E. This section shall not affect any existing zoning regulations in other zoning districts which address the above-specified uses.

F. This section shall apply to all existing and future businesses located in the "E" local business district.

(Ord. 288, 1991)

2. Parking Regulations.

A. The parking regulations for dwelling are the same as those in the "D" Multiple Dwelling District.

B. Whenever a structure is erected or reconstructed for any of the commercial purposes permitted in this district there shall be provided parking spaces in the ratio of not less than one (1) parking space for each two hundred (200) square feet of floor space in the building which is used for commercial purposes, except that any restaurant or establishment whose primary use is to serve meals, lunches, or drinks to patrons, either in their cars or in the building, shall provide parking spaces on the lot in the ratio of not less than one (1) parking space for each one hundred (100) square feet of floor space in the building. Such parking space shall be located on the same lot as the building or on an area within three hundred (300) feet of the building. Two or more owners of buildings may join together in providing this parking space.

3. Height Regulations. No building shall exceed two and one-half (2 1/2) stories or shall it exceed thirty-

five (35) feet in height, except as otherwise provided in Sections 6-7.0106 and 6-7.0107.

4. Area Regulations.

A. Front Yard. The front yard regulations are the same as those in the "C" Two-Family Dwelling District.

B. Side Yard. The side yard regulations for dwellings are the same as those in the "C" Two-Family Dwelling Districts. Where a lot is used for any of the commercial purposes permitted in this district and is located at the intersection of two or more streets, the side yard on the side of a lot adjacent to the street shall not be less than ten (10) feet in width, except that the buildable width of the lot shall not be reduced to less than twenty-five (25) feet. In all other cases a side yard is not required except on the side of a lot abutting on a dwelling district, in which case there shall be a side yard of not less than five (5) feet.

C. Rear Yard. Except as hereinafter provided in Article XIV, there shall be a rear yard having a depth of not less than twenty-five (25) feet, unless the lot is less than one hundred twenty-five (125) feet, in which case the rear yard need not exceed twenty (20) percent of the depth of such lot.

D. Intensity of Use. When a lot is with a single family dwelling or two-family dwelling the intensity of use regulations shall be the same as those required in the "C" Two-Family Dwelling Districts. When a lot is improved with a multiple dwelling or when living facilities are erected above stores there shall be a lot area per family of not less than twenty five hundred (2,500) square feet. Where a lot contains less than twenty-five hundred (2,500) square feet and was of record at the time of the passage of this ordinance, it may contain living facilities for not more than one family.

6-7.0312 "F" CENTRAL BUSINESS REGULATIONS.

The regulations set forth in this section and set forth elsewhere in the code when referred to in this sec-

tion are the regulations in the "F" Central Business District.

1. Use Regulations. A building or premises shall be used only for the following purposes:

Any use permitted in the "E" Local Business District.

Advertising signs and bulletin boards.

Bakery.

Dyeing and leaning works, providing the cleaning fluid used is of a material other than petroleum or one of its derivatives.

Hotel and motel.

Laundry.

Plumbing shop.

Printing shop.

Public garage and automobile sales room, but not within one hundred twenty-five (125) feet of the boundary of any residential district.

Tinsmithing shop.

Used car sales or storage lots.

Research and development laboratories.

2. Parking Regulations. All regulations shall be the same as the regulations in the "E" Local Business District.

3. Height Regulations. A country home district or a publicly owned area other than an alley or street, shall not exceed three (3) stories or forty-five (45) feet in height unless it is set back one (1) foot from all required yard lines for each foot of additional height above forty-five (45) feet.

4. Area Regulations.

A. Front Yard. No front yard is required except where the frontage on one side of a street between two intersecting streets is partly in the "F" Central Business District and partly in a dwelling district, in which event the front yard regulations of the dwelling district shall apply.

B. Side Yard. The side yard regulations for dwellings are the same as those in the "D" Multiple Dwelling District. In all other cases a side yard is not required.

C. Rear Yard. The rear yard regulations for dwellings are the same as those in the "D" Multiple Dwelling District. In all other cases, a rear yard is not required.

D. Intensity of Use. When a lot is improved with a single family dwelling, two family dwelling, or multiple dwelling, or when living facilities are erected above other uses, the intensity of use regulations are the same as those required in the "D" Multiple Family Dwelling District.

6-7.0313 "G" LIGHT INDUSTRIAL DISTRICT REGULATIONS.

The regulations set forth in this section or set forth elsewhere in this code when referred to in this section are the regulations in the "G" Light Industrial District.

1. Permitted Uses. A building or premises shall be used for the following purposes only in the "G" Light Industrial District.

The following Light Industrial Uses are permitted.

Bottling plants

Building and storage yards

Cheese factories

Coal yards

Ice cream manufacturing

Laundries

Lumber and building material yards

Milk collection depots

Railroad and freight stations and service tracks

Storage warehouses

Truck terminals

Wholesale establishments

Bus garages and repair shops

In general, any light manufacturing may be permitted within fully enclosed buildings.

2. Prohibited Uses. The following uses are not permitted in the "G" Light Industrial District:

Acetylene gas manufacture or storage

Acid manufacture

Alcohol manufacture

Ammonia, bleaching powder or chlorine manufacture

Arsenal

Asphalt manufacture or refining

Auto wrecking or salvage

Blast furnace

Bag cleaning

Boiler works

Brick, tile, pottery or terra cotta manufacture other than the manufacture of handcraft products only

Cement, lime, gypsum, or plaster of Paris manufacture

Coke ovens

Creosote manufacture or treatment

Disinfectants manufacture

Distillation of bones, coal or wood

Dyestuff manufacture

Explosives or fireworks manufacture or storage

Fat rendering

Fertilizer manufacture

Forge plant

Garbage, offal, or dead animals reduction or dumping

Gas manufacture or storage

Glue, size or gelatin manufacture

Iron, steel, brass or copper foundry

Junk, iron, or rags storage or baling

Oilcloth or linoleum manufacture

Oiled rubber goods manufacture, ore reduction

Paint, oil, shellac, turpentine or varnish manufacture

Paper and pulp manufacture

Petroleum or its products, refining or wholesale storage

Planing mills, rock crusher

Rolling mill

Rubber or gutta-percha manufacture or treatment

Shoe polish manufacture

Smelting of tin, copper, zinc or iron ores

Stock yard or slaughter of animals or fowls

Stone mill or quarry

Tanning, curing or storage of raw hides or skins

Tar distillation or manufacture

Tar-roofing or water proofing manufacture

Yeast plant

Corn Driers

In general, any light manufacturing may be permitted within fully enclosed buildings, but not including uses which may be obnoxious or offensive by reason of emission of odor, dust, smoke, gas or noise.

3. Height Regulations. No building shall exceed six stories or eighty (80) feet in height except as otherwise provided in Section 6-7.0106 and where a building is located on a lot abutting or adjoining a dwelling district, a country home district, or publicly owned area, other than an alley or street, it shall not exceed three (3) stories or forty-five (45) feet in height unless it is set back one (1) foot from all required yard lines for each foot of additional height above forty-five feet.

4. Area Regulations,

A. Front Yard. Where all the frontage on one side of the street between the two intersecting streets is located in the "G" Light Industrial District, no front yard shall be required. Where the frontage on one side of the street between two intersecting streets is located partly in the "G" Light Industrial District and a dwelling or any commercial district, the front yard requirement of the dwelling or commercial district shall apply to the "G" Light Industrial District.

B. Side Yard. The side yard regulations for dwellings are the same as in the "D" Multiple Dwelling District. In all other cases a side yard is not required except on the side of a lot abutting on a dwelling or country home district, in which case there shall be a side yard of not less than five (5) feet.

C. Rear Yard. The rear yard requirements for dwellings are the same as those in the "F" Multiple Dwelling District. In all other cases a rear yard is not required except on the rear of a lot abutting on a dwelling district, in which case there shall be a rear yard of not less than fifteen (15) feet in depth.

D. Intensity of Use. When a lot is improved with a dwelling or any other living facilities are erected above other uses, the intensity of use regulations are the same as those required in the "D" Multiple Family Dwelling District.

6-7.0314 "H" HEAVY INDUSTRIAL DISTRICT REGULATIONS.

The regulations set forth in this section or set forth elsewhere in this code when referred to in this section are the "H" Heavy Industry Regulations.

1. Use Regulations: Uses in Existence Prior to Zoning. In the "H" Heavy Industrial District, no building shall be converted or erected for dwelling purposes unless the location shall be approved by the board of adjustment. Industrial establishments located in the "H" Heavy Industrial District at a time prior to the adoption of the amendment codified in this section, may build new facilities or expand existing facilities, provided they are for the following uses:

- A. Cement, lime, gypsum, or plaster manufacture or storage.
- B. Quarries, mines, and storage of mineral products.
- C. Petroleum or its products, storage or blending.
- D. Concrete or asphalt mixing or proportioning plants.
- E. Truck terminals.
- F. Grain storage and shipping.
- G. Barge terminals.
- H. Dry docking facilities.

2. Use regulations: Uses not in Existence Prior to Zoning. Uses not in existence prior to December 20,1976 or listed in subsection 1 of this section shall not be issued a building permit until approval is obtained from the board of adjustment. No facility shall be permitted to carry on the direct purpose of the business closer than five hundred (500) feet from a residential district being classified "A" Country Home District, "B" Single Family Dwelling District, "C" Two Family Dwelling District, or "D" Multiple Family Dwelling District.

3. Area Regulations.

A. Front Yard. Where all the frontage on one side of a street between two intersecting streets is located in the "H" Heavy Industrial District, no front yard shall be required. Where the frontage on one side of the street between two intersecting streets is located partly in the "H" Heavy Industrial District and partly in a dwelling or commercial district, the front yard requirements of the dwelling or commercial district shall apply to the "H " Heavy Industrial Districts.

B. Side Yard. The side yard regulations are the same size in the "G" Light Industrial District.

C. Rear Yard. The rear yard regulations are the same as in the "G" Light Industrial District.

D. Intensity of Use. The intensity of use regulations are the same as in the "E" Local Business District.
(Ord. 876, Sec. 2, 1976)

6-7.0315 SUPPLEMENTAL DISTRICT REGULATIONS.

The district regulations hereinafter set forth in this section qualify or supplement, as the case may be the district regulations appearing elsewhere in this code.

(Code of Iowa, 1973, Sec. 414.2)

1. Height: Public Buildings. Public, semipublic or public service buildings, hospitals, institutions or schools, when permitted in a district, may be erected to a height not exceeding sixty (60) feet, and churches and temples may be erected to a height not exceeding seventy-five (75) feet if the building is set back from each yard line at least one (1) foot for each foot of additional building height above the height limit otherwise provided in the district in which the building is located.

2. Height: Single and Two-Family Dwellings. Single-family and two-family dwellings may be increased in height by not more than ten (10) feet when the side and rear yards are increased over the yard requirements of the district in which they are located by not less than ten (10) feet, but they shall not exceed three (3) stories in height.

3. Height: Storage Buildings. Buildings that are to be used for storage purposes only may exceed the maximum number of stories that are permitted in the district in which they are located, but such buildings shall not exceed the number of feet of building height permitted in such districts.

4. Height: Structures. Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers or scenery lofts, tanks, water towers, ornamental

towers and spires, church steeples, radio towers, or necessary mechanical appurtenances, may be erected to a height in accordance with the ordinances of the city.

5. Accessory Building Requirements.

A. Accessory buildings may be built in a required rear yard but such accessory buildings shall not be nearer to any side lot line than the required distance of the main building or to the main use of the premises to which the accessory building is incidental. Such accessory buildings shall not be nearer than four (4) feet to any rear lot line or to any alley, nor shall any accessory building occupy more than thirty (30) percent of the required rear yard.

B. No accessory building shall be constructed upon a lot until the construction of the main building has been actually commenced, and no accessory building shall be used for dwelling purposes other than by domestic servants employed on the premises.

6. Rear Yard: Measurement, Whenever a lot abuts upon an alley, one half of the width of the alley may be considered as a portion of the required rear yard.

7. Open Air Requirements.

A. Every part of a required yard shall be open to the sky, unobstructed, except for accessory buildings in a rear yard, and except for the ordinary projections of sills, belt courses, cornices, and ornamental features projecting not to exceed twenty-four (24) inches.

B. Open or lattice-enclosed fire, fireproof outside stairways, and balconies opening upon fire towers projecting into a rear yard not more than five (5) feet, and the ordinary projections of chimneys and flues into the rear yard may be permitted by the enforcement officer.

8. Fences: Requirements. Fences constructed of solid wood surface may be erected to a height not to exceed five (5) feet along the boundaries of a lot, except that no such fence shall be erected within thirty (30)

feet of a street intersection. Wire fences and other fences in which the openings between the materials of which the fence is constructed represents more than seventy (70) percent of the total fence area may be erected to a height of six (6) feet except within thirty (30) feet of a street intersection to no case will any fence be erected to a height exceeding two and one half (2-1/2) feet in a front yard.

A. All fences shall have a three-foot (3') gate for emergencies, front yard and backyard.

B. The existing height of a front yard fence is adjusted from forty-two (42) inches to forty-eight (48) inches where commercial chain link fencing or approved equal is used.

C. A rear or side yard fence may be a solid fence of six (6) feet in height or a six (6) foot wire or chain link fence may be installed.

D. In no case shall a solid fence, hedge or shrub be more than thirty (30) inches in height in a front yard.

9. Side Yard Considerations. For the purpose of the side yard regulations, a two-family, a group house, or a multiple dwelling shall be considered as one (1) building occupying one (1) lot.

10. Airport Airspace. No building exceeding two and one half (2-1/2) stories or thirty-five (35) feet shall be erected within seven hundred fifty (750) feet of any airport, landing field or land strip.

11. Temporary Building Regulations. Temporary buildings that are used in conjunction with construction work only may be permitted in any district during the period that the building is being constructed, but such temporary buildings shall be removed upon completion of the construction work as determined by the enforcement officer.

12. Number of Buildings on Single Lot. More than one (1) industrial, commercial, multiple dwelling, or institutional building may be erected upon a single lot or tract,

but the yards and open spaces required around the boundaries of the lot or tract shall not be encroached upon by any such buildings, nor shall there be any change in the intensity of use regulation.

13. Barriers for Swimming Pools, Spas and Hot Tubs. An outdoor or indoor swimming pool shall be provided with a barrier that shall comply with the requirements as set out in the 1997 Uniform Building Code, Appendix, Chapter 4, Division I thereof in all respects. For purposes of this subsection, a swimming pool is defined as any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches (610mm) deep; this includes in-ground, aboveground and on-ground swimming pools, hot tubs, portable and non-portable spas, and fixed-in-place wading pools.

(Ord. 347, 1997; Ord. 267, Sec. 2, 1990; Ord. 239, Secs. 1 and 2)

6-7.0316 NONCONFORMING USES.

1. Land and Advertising Signs. The lawful use of land for storage purposes (where such use is not an adjunct of any building) and for advertising signs and billboards which does not conform to the provisions of the code shall be discontinued by August 4, 1972, and the same uses of land which became non-conforming by reason of an amendment to this code shall be discontinued within three (3) years from the effective date of the amendment.

(Code of Iowa, 1973, Sec. 414.2)

2. Buildings. The lawful use of a building existing on August 4, 1969 may be continued, although such use does not conform with the provisions hereof. If no structural alterations are made, a non-conforming use of a building may be changed to another non-conforming use of the same or more restricted classification. The foregoing provisions shall also apply to non-conforming uses in districts hereafter changed. Whenever a non-conforming use of a building has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restricted use.

(Code of Iowa, 1973, Sec. 414.2)

3. Destroyed. No building which has been damaged by fire, explosion, act of God or the public enemy, to the extent of more than sixty-five percent of its value, shall be restored except in conformity with the regulations of this code.

(Code of Iowa, 1973, Sec. 414.2)

4. Discontinued. In the event that a non-conforming use of any building or premises is discontinued or its normal operation stopped for a period of three (3) years, the use of the same shall thereafter conform to regulations of the district in which it is located.

(Code of Iowa, 1973, Sec. 414.2)

5. Extension. A non-conforming use occupying only a portion of a building may be extended throughout the building if same has been lawfully acquired and actually devoted to such use previous to August 4, 1969 or to any affecting amendments thereafter.

(Code of Iowa, 1973, Sec. 414.2)

CHAPTER 8 - MOBILE HOMES

6-8.01 RESTRICTIONS.

All house trailers or other mobile units used as a permanent or temporary basis as a place of abode hereafter moved into the incorporated limits of the city shall hereby be restricted to the following provisions:

1. Parking Right Limited. All house trailers or other mobile units are hereby restricted to not more than ten days parking rights in any section of the city zoned other than "H" Heavy Industry District as defined in the Buffalo Zoning Code.

2. Permit Required. House trailers or other mobile units may be used as a temporary place of abode or for temporary office use in the "H" Heavy Industry District provided a permit is obtained from the council, who has authority to grant or deny such permit as it deems fitting. Any person granted a permit shall comply with all health standards of the state.

6-8.02 STORAGE OF VEHICLES.

House trailers and other mobile units, including campers that are parked for storage and only used as a place of abode on trips shall be kept in such a manner as to comply with all ordinances.

6-8.03 EXISTING TRAILERS: EXCEPTION.

House trailers or other mobile units used as a place of abode as are now located within the incorporated limits of the city on a permanent, semi-permanent or storage basis as of December 7, 1970, shall be exempt from the provisions of Section 6-8.01, restricting trailers to a ten day per year residence.

6-8.04 TRAILERS: EXEMPTION INVALIDATED.

Change of location of house trailers or mobile units, that may or may not be used as a place of abode and that are now located within the city on a permanent, or semi-permanent or storage basis, shall then make them subject to the ten day clause as specified in Section 1, as of December 7, 1970.

CHAPTER 9 - MUNICIPAL ELECTRIC UTILITY

ARTICLE I
OPERATING RULES AND REGULATIONS

6-9.0101 PURPOSE.

The purpose of this article is to establish operating rules and regulations for the municipally owned electric utility.

6-9.0102 RULES AND REGULATIONS ADOPTED.

Operating rules and regulations for the municipally owned electric utility shall be those contained in the document entitled "Rules and Regulations for the Operation of the Municipal Lighting and Distribution System of the Town of Buffalo, Iowa" adopted March 3, 1968.

6-9.0103 COPY FILED.

A copy of the "Rules and Regulations for the Operation of the Municipal Lighting and Distribution System of

the Town of Buffalo, Iowa" shall be placed on file with the Iowa State Commerce Commission.

(Iowa Departmental Rules, 1975, page 173, Sec. 20.2 [3])

ARTICLE 3
ELECTRIC SERVICE RATES

6-9.0301 PURPOSE.

The purpose of this article is to fix the rates for electric service and to provide for their collection.

6-9.0302 ELECTRIC RATES.

The rate for electric energy commencing on May 1, 1985, shall be as follows:

Effective 07-01-11

1. All KWH @ 0.09¢ each
2. Meter service charge @ 5.00 per month per meter
(Ord.442,2011 Ord.433,2010)

3. Security Lights. Each light, otherwise known as "fixture," shall be charged a fee of ten dollars and seventy-nine cents (\$10.79) per month, plus required taxes. The customer has the option to purchase a light from the city which will be installed on their electrical hookup. On privately owned security lights the owner will be responsible for maintenance and replacement.

4. Temporary Construction Services. Each temporary service will be provided by the utility, (if available), at a cost of twenty-five dollars (\$25.00) per month plus usage. A deposit of one hundred twenty-five dollars (\$125.00) will be required before service will be installed. The deposit will be returned after the service has been disconnected or the remainder after costs for damages (beyond normal wear) have been deducted. If a temporary service is not available, the contractor or homeowner will provide the temporary service, meeting all applicable codes and regulations at their own expense. A one (1) time connection fee of fifty dollars (\$50.00) will be charged for the temporary services not supplied by the utility.

(Ord. 392, 2004; Ord. 291, 1992; Ord. 234, Sec. 1, 1985:
Ord. 214, Sec. 1, 1983; Ord. 211, Sec. 1, 1982; Ord. 204,
Sec. 1, 1981; Ord. 177, Sec. 1, 1977; Ord. 172, Sec. 1,
1976: Code of Iowa, 1975, Sec. 384.84 [1])

6-9.0303 BILLING FOR ELECTRIC SERVICE.

Billing and payment for electric service shall be in
accordance with the following:

(Code of Iowa, 1975, Sec. 384.84 [1])

1. Bills Issued. The clerk shall prepare and issue
bills for electric service. Bills shall be deemed issued
as of the first of the month following the reading of me-
ters.

2. Bills Payable. Bills for electric service shall
be due and payable at the office of the clerk by the twen-
tieth day of the month issued.

3. Late Payment Penalty. Bills not paid when due
shall be considered delinquent. If any charge for this
service shall not be paid by the day of the month in which
it shall be come due and payable, a charge of three per-
cent (3%) of the amount of the bill shall be added thereto
and collected therewith.

(Ord. 417 2007, Amended during 10/92 supplement)

6-9.0304 SERVICE DISCONTINUED.

Electric service to delinquent consumers shall be
discontinued in accordance with the following:

(Code of Iowa, 1975, Sec. 384.84 [1])

1. Notice. The clerk shall notify each delinquent
consumer that electrical service, water service, or sewer
service will be discontinued if payment, including late
charges, is not received before the end of the month when
due. The clerk shall provide written notice to the account
holder by ordinary mail informing the account holder of
the nature of the delinquency, and affording the account
holder the opportunity for a hearing prior to discontinu-
ance of service. If the account holder is a tenant, and if
the owner of the property has made a written request for

notice, the notice shall also be given to the owner or landlord. Such notice shall be sent by first class mail by the twenty-fourth day of the month.

2. Service Discontinued. Electric service shall be shut off to any consumer who, not having contested the amount billed in good faith, has failed to make payment by the date specified in the notice of delinquency.

3. The city clerk shall contact the public works director or assistant public works director with the names and address of delinquent parties. With no exception, the electric and water services shall be discontinued that same day.

4. Shut-Off Fee and Reconnection Fee. The fee to have electric or water services disconnected shall be thirty-five dollars (\$35.00) per utility service. The electric utility service is a separate utility service from the water utility service. The disconnection fee shall not be waived once the city employees have arrived at the consumer's service location to disconnect the utility service. The fee to reconnect electric and water services shall be thirty-five dollars (\$35.00) per utility service, if the reconnection is during business hours. If the reconnection is after regular business hours, then the reconnection fee shall be sixty-five dollars (\$65.00) per utility service. If the reconnection occurs on a holiday, the reconnection fee shall be eighty-five dollars (\$85.00) per utility service. The service shall not be connected until all fees and delinquent bills are paid in full. These payments are to be made to city hall and paid with either cash or money order.

5. Utility Deposits. All persons requiring electric, water or sewer utilities must make a deposit to the clerk's office before connection or switching it from one (1) name to another. The amount of the deposit for utilities is two hundred dollars (\$200.00). The deposit will be returned upon the written request of the depositor provided the depositor has timely paid his or her utility bill for the previous twelve (12) consecutive full months. If the customer who has received a refund of his or her utility deposit is subsequently delinquent more than once

in a subsequent period, another deposit will be required. If the required deposit is not provided to the city, the city may discontinue utility service.

Once a residential customer has met the twelve (12) month requirement and has the deposit refunded, they will not be required to post an additional deposit should they move to another residence receiving city utility services, regardless of a lapse in utility usage. If a residential customer who is not required to provide a utility deposit is subsequently delinquent more than once in a subsequent twelve (12) month period, a utility deposit will be required by the city. If the required deposit is not provided to the city, then the city may discontinue utility service.

(Ord. 402 § 1, 2006; Ord. 390, 2004; Ord. 375, Secs. 1, 3, 2002; Ord. 338, 1996)

6-9.0305 LIENS FOR UNPAID ELECTRIC SERVICES.

1. All electric utility rates or charges established in this article, if not paid within thirty-five (35) days after billing, are a lien upon the premises served by the municipal electric utility.

2. The lien specified in subsection 1 shall be imposed upon a certification by the city to the Scott County treasurer that such rates or charges are due and unpaid. A lien imposed pursuant to this article shall not be less than five dollars (\$5.00).

3. A residential rental property shall be exempt from the imposition of a lien for electrical water or sewer rates or charges incurred by a bona-fide tenant of the premises if the landlord gives written notice to the city that the property is residential property and that the tenant is liable for the rates or charges. The written notice shall contain the name of the tenant responsible for the charges, address of the residential property that the tenant is to occupy, and the date that the occupancy begins and shall also be signed by the landlord and the tenant. A change in tenant shall require a new written advance notice to be given to the city within ten (10) business days of the change in tenant. The notice shall be signed by both the landlord and the tenant and shall state

the date the tenancy is to begin or end, whichever is applicable. When the tenant moves from the rental property the city shall return the deposit if the electrical, water, or sewer charges are paid in full. A change in ownership of the residential property shall require written notice of such change to be given within ten (10) business days of completion of the change of ownership.

4. The lien exemption for residential rental property does not apply to charges for repairs of any municipal electric utility equipment or materials on the premises used to deliver electric services if the repair charges become delinquent.

5. Any person who fails:

A. To provide a written notice of a change in tenancy;

B. To provide written notice that the premises is no longer occupied as a residential rental property; or

C. Wrongfully gives written notice of a bona fide tenancy when no such tenancy actually exists;

Shall be guilty of a simple misdemeanor for each separate incident involving a wrongful notice or a failure to give notice.

(Ord. 375, Sec. 2, 2002; Ord. 290, 1992)

CHAPTER 10 - FLOODPLAIN MANAGEMENT*

* Prior ordinance history: Ordinance 199.

ARTICLE 1 GENERAL PROVISIONS

6-10.0101 STATUTORY AUTHORIZATION.

The legislature of the state has in Chapter 414, Code of Iowa, 1979, as amended, delegated the responsibility to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

(Ord. 243, Sec. 1(A), 1987)

6-10.0102 FINDINGS OF FACT.

1. The flood hazard areas of Buffalo are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the health, safety, and general welfare of the community.

2. These losses, hazards and related adverse effects are caused by:

A. The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flood; and

B. The cumulative effect of floodplain construction on flood flows, which causes increases in flood height and floodwater velocities.

3. This chapter relies upon engineering methodology for analyzing flood hazards which is consistent with the standards established by the Department of Natural Resources. This methodology consists of a series of interrelated steps including:

A. Determination of flood magnitudes and the corresponding flood frequencies by statistical and engineering calculations which permits a consideration of such flood factors as expected frequency of occurrence, area inundated, and depth of inundation;

B. Calculation of water surface profiles based upon a hydraulic engineering analysis of the capability of the stream channel and overbank areas to convey flood flows;

C. Computation and delineation of a floodway, an area which must be reserved (no obstructions) for conveyance of flood flows so that flood heights and velocities will not be substantially increased by future encroachment on the floodplain.

(Ord. 243, Sec. 1(B), 1987)

6-10.0103 PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare by minimizing those flood losses described in Section 6-10.0102 with provisions designed to:

1. Reserve sufficient floodplain area for the conveyance of flood flows so that flood heights and velocities will not be increased substantially;
2. Restrict or prohibit uses which are dangerous to health, safety or property in times of flood or which cause excessive increases in flood heights or velocities;
3. Require that uses vulnerable to floods, including public utilities which serve such uses, be protected against damage at the time of initial construction;
4. Protect individuals from buying lands which are unsuited for intended purposes because of flood hazard;
5. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

(Ord. 243, Sec. 1(C), 1987)

6-10.0104 APPLICABILITY.

This chapter shall apply to all lands within the jurisdiction of the city, as shown on the Flood Boundary and Floodway Map to be within the one hundred (100) year flood boundaries.

(Ord. 243, Sec. 2(A), 1987)

6-10.0105 FLOODPLAIN ZONING MAP ADOPTED.

The Flood Insurance Rate Map (FIRM) for Scott County and Incorporated Areas, City of Buffalo, Panels 19163C0433F, 0434F, 0451F, 0452F, 0453F, 0454F, 0456F, 0458 , dated February 18, 2011, which were prepared as part of the Flood Insurance Study for Scott County, is (are) hereby adopted by reference and declared to be the Official Floodplain Zoning Map. The flood profiles and all explanatory material contained with the Flood Insurance Study are also declared to be a part of this ordinance.

(Ord.441,2011(part); Ord. 243, Sec. 2 (B), 1987).

6-10.0106 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES.

The boundaries of the zoning district shall be determined by scaling distances on the official floodplain zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map the building inspector shall make the necessary interpretation. The person contesting the location of the district boundary shall be given a reasonable opportunity to present their case and submit technical evidence.

(Ord. 243, Sec. 2(C), 1987)

6-10.0107 COMPLIANCE.

No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.

(Ord. 243, Sec. 2(D), 1987)

6-10.0108 ABROGATION AND GREATER RESTRICTIONS.

It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances inconsistent with this chapter are repealed to the extent of the inconsistency only.

(Ord. 243, Sec. 2(E), 1987)

6-10.0109 INTERPRETATION.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(Ord. 243, Sec. 2(F), 1987)

6-10.0110 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and

is based on engineering and scientific methods of study. Larger floods may occur on rare occasions. Flood heights may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter shall not create liability on the part of Buffalo or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. 243, Sec. 2(G), 1987)

ARTICLE 2 DEFINITIONS

6-10.0201 GENERALLY.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

(Ord. 243, Sec. 11(part), 1987)

6-10.0202 BASEMENT.

"Basement" means any enclosed area of a building which has its floor or lowest level below ground level (subgrade) on all sides. Also see "lowest floor."

(Ord. 243, Sec. 11(part), 1987)

6-10.0203 DEVELOPMENT.

"Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

(Ord. 243, Sec. 11(part), 1987)

6-10.0204 FACTORY-BUILT HOME.

"Factory-built home" means any structure, designed for residential use, which is wholly or in substantial part, made, fabricated, formed or assembled in manufacturing facilities for installation or assembly and installation, on a building site. For the purpose of this chapter factory-built homes include mobile homes, manufactured

homes and modular homes and also include park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty consecutive days.

(Ord. 243, Sec. 11(part), 1987)

6-10.0205 FACTORY-BUILT HOME PARK.

"Factory-built home park" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for rent or sale.

(Ord. 243, Sec. 11(part), 1987)

6-10.0206 FLOOD.

"Flood" means a general and temporary condition of partial or complete inundation of normally dry land areas resulting from the overflow of streams or rivers or from the unusual and rapid runoff of surface waters from any source.

(Ord. 243, Sec. 11(part), 1987)

6-10.0207 FLOOD ELEVATION.

"Flood elevation" means the elevation floodwaters would reach at a particular site during the occurrence of a specific flood. For instance, the one hundred (100) year flood elevation is the elevation of floodwaters related to the occurrence of the one hundred (100) year flood.

(Ord. 243, Sec. 11(part), 1987)

6-10.0208 FLOOD INSURANCE RATE MAP.

"Flood Insurance Rate Map" means the official map prepared as part of (but published separately from) the Flood Insurance Study which delineates both the flood hazard areas and the risk premium zones applicable to the community.

(Ord. 243, Sec. 11(part), 1987)

6-10.0209 FLOOD INSURANCE STUDY.

"Flood Insurance Study" means a study initiated, funded, and published by the Federal Insurance Administration for the purpose of evaluating in detail the existence and severity of flood hazards; providing the city with the necessary information for adopting a floodplain management program; and establishing actuarial flood insurance rates.

(Ord. 243, Sec. 11(part), 1987)

6-10.0210 FLOODPLAIN.

"Floodplain" means any land area susceptible to being inundated by water as a result of a flood.

(Ord. 243, Sec. 11(part), 1987)

6-10.0211 FLOODPLAIN MANAGEMENT.

"Floodplain management" means an overall program of corrective and preventive measures for reducing flood damages and promoting the wise use of floodplains, including but not limited to emergency preparedness plans, flood-control works, flood proofing and floodplain management regulations.

(Ord. 243, Sec. 11(part), 1987)

6-10.0212 FLOODPROOFING.

"Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures, including utility and sanitary facilities, which will reduce or eliminate flood damage to such structures.

(Ord. 243, Sec. 11(part), 1987)

6-10.0213 FLOODWAY.

"Floodway" means the channel of a river or stream and those portions of the floodplains adjoining the channel, which are reasonably required to carry and discharge floodwaters or flood flows so that confinement of flood flows to the floodway area will not result in substantially higher flood levels and flow velocities.

(Ord. 243, Sec. 11(part), 1987)

6-10.0214 FLOODWAY FRINGE.

"Floodway fringe" means those portions of the floodplain, other than the floodway, which can be filled, levied, or otherwise obstructed without causing substantially higher flood levels or flow velocities.

(Ord. 243, Sec. 11(part), 1987)

6-10.0215 LOWEST FLOOR.

"Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when all the following criteria are met:

1. The enclosed area is designed to flood to equalize hydrostatic pressure during floods with walls or openings that satisfy the provisions of Section 6-10.0502(4)(A); and

2. The enclosed area is unfinished (not carpeted, dry-walled, etc.) and use solely for low damage potential uses such as building access, parking or storage; and

3. Machinery and service facilities (e.g. hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the one hundred (100) year flood level; and

4. The enclosed area is not a "basement" as defined in this section.

In cases where the lowest enclosed area satisfies the criteria set forth in subsections 1, 2, 3 and 4 of this Section, the lowest floor is the floor of the next highest enclosed area that does not satisfy the criteria in said subsections.

(Ord. 243, Sec. 11(part), 1987)

6-10.0216 NEW CONSTRUCTION (NEW BUILDINGS, FACTORY-BUILT HOME PARKS).

"New construction" means those structures or development for which the start of construction commenced on or after the effective date of the Flood Insurance Rate Map.

(Ord. 243, Sec. 11(part), 1987)

6-10.0217 ONE-HUNDRED (100) YEAR FLOOD.

"One hundred (100) year flood" means a flood, the magnitude of which has a one (1) percent chance of being equaled or exceeded in any given year or which, on the average, will be equaled or exceeded at least once every one hundred (100) years.

(Ord. 243, Sec. 11(part), 1987)

6-10.0218 STRUCTURE.

"Structure" means anything constructed or erected on the ground or attached to the ground, including, but not limited to, buildings, factories, sheds, cabins, factory-built homes, storage tanks, and other similar uses.

(Ord. 243, Sec. 11(part), 1987)

6-10.0219 SUBSTANTIAL IMPROVEMENT.

"Substantial improvement" means any reconstruction, rehabilitation, addition or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage" regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which have been identified by the local code enforcement officer and which are the minimum necessary to assure safe living conditions; or

2. Any alteration will not preclude the structure's continued designation as a "historic structure."

(Ord. 299(part), 1993: Ord. 243, Sec. 11(part), 1987)

6-10.0220 RECREATIONAL VEHICLE.

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;

2. Four hundred (400) square feet or less when measured at the largest horizontal projection;

3. Designed to be self-propelled or permanently towable by a light duty truck;

4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal.

(Ord. 299(part), 1993)

6-10.0221 SUBSTANTIAL DAMAGE.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or

exceed fifty (50) percent of the market value of the structure before the damage occurred.

(Ord. 299(part), 1993)

6-10.0222 EXISTING CONSTRUCTION - Any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community. May also be referred to as "existing structure".

6-10.0223 EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - A factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the first floodplain management regulations adopted by the community.

6-10.0224 EXPANSION OF EXISTING FACTORY-BUILT HOME PARK OR SUBDIVISION - The preparation of additional sites by the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

6-10.0225 HISTORIC STRUCTURE - Any structure that is:

- a. Listed individually in the National Register of Historic Places, maintained by the Department of Interior, or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing of the National Register;
- b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or,
- d. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified by either i) an approved

state program as determined by the Secretary of the Interior or ii) directly by the Secretary of the Interior in states without approved programs.

6-10.0226 MINOR PROJECTS - Small development activities (except for filling, grading and excavating) valued at less than \$500.

6-10.0227 NEW CONSTRUCTION - (new buildings, factory-built home parks) - Those structures or development for which the start of construction commenced on or after the effective date of the first floodplain management regulations adopted by the community.

6-10.0228 ROUTINE MAINTENANCE OF EXISTING BUILDINGS AND FACILITIES - Repairs necessary to keep a structure in a safe and habitable condition that do not trigger a building permit, provided they are not associated with a general improvement of the structure or repair of a damaged structure. Such repairs include:

- a) Normal maintenance of structures such as re-roofing, replacing roofing tiles and replacing siding;
- b) Exterior and interior painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work;
- c) Basement sealing;
- d) Repairing or replacing damaged or broken window panes;
- e) Repairing plumbing systems, electrical systems, heating or air conditioning systems and repairing wells or septic systems.

6-10.0229 SPECIAL FLOOD HAZARD AREA - The land within a community subject to the "100-year flood". This land is identified as Zone A on the community's Flood Insurance Rate Map.

6-10.0230 START OF CONSTRUCTION - Includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within 180 days of the permit date. The actual start means either the first placement or per-

manent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

6-10.0231 VARIANCE - A grant of relief by a community from the terms of the floodplain management regulations.

6-10.0232 VIOLATION - The failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

(Ord.441(part),2011

ARTICLE 3
ESTABLISHMENT OF DISTRICT BOUNDARIES

6-10.0301 DISTRICTS ESTABLISHED.

The floodplain areas within the jurisdiction of this chapter are divided into the following districts:

1. Floodway (Overlay) District. The Floodway District shall be consistent with the boundaries of the floodway as shown on the official floodplain zoning map.

2. Floodway Fringe (Overlay) District. The Floodway Fringe District shall be those areas shown as floodway fringe on the official floodplain zoning map.

3. General Floodplain (Overlay) District. The General Floodplain District shall be those areas shown on the

official floodplain zoning map as being within the approximate one hundred (100) year flood boundary.

4. Shallow Flooding (Overlay) District. The Shallow Flooding District shall be those areas shown on the official floodplain zoning map as being within the one hundred (100) year flood boundary and identified on the Flood Insurance Rate Map as AO and AH zone (s).

(Ord. 243, Sec. 3, 1987)

ARTICLE 4
FLOODWAY (OVERLAY) DISTRICT (FW)

6-10.0401 PERMITTED USES.

The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other chapter (or underlying zoning district) and provided they do not include placement of structures, factory-built homes, or other obstruction, the storage of materials or equipment, excavation, or alteration of a watercourse:

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, and farming, and wild crop harvesting;

2. Industrial-commercial uses such as loading areas, parking areas, airport landing strips;

3. Private and public recreational uses such as golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails;

4. Residential uses such as lawns, gardens, parking areas and play areas;

5. Such other open-space uses similar in nature to the above uses.

(Ord. 243, Sec. 4(A), 1987)

6-10.0402 CONDITIONAL USES.

The following uses which involve structures (temporary or permanent), fill, storage of materials or equipment may be permitted only upon issuance of a conditional use permit by the board of adjustment as provided for in Article 9. Such uses must also meet the applicable provisions of the Floodway District performance standards:

1. Uses or structures accessory to open-space uses;
2. Circuses, carnivals, and similar transient amusement enterprises;
3. Drive-in theaters, new and used car lots, roadside stands, signs, and billboards;
4. Extraction of sands, gravel, and other materials;
5. Marinas, boat, docks, piers, wharves;
6. Utility transmission lines, underground pipelines;
7. Other uses similar in nature to uses described in this section or Section 6-10.0401 which are consistent with the provisions of Section 6-10.0403 and the general spirit and purpose of this chapter.

(Ord. 243, Sec. 4(B), 1987)

6-10.0403 PERFORMANCE STANDARDS.

All Floodway District uses allowed as a permitted or conditional use shall meet the following standards:

1. No use shall be permitted in the Floodway District that would result in any increase in the one hundred (100) year flood level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.
2. All uses within the Floodway District shall:

- A. Be consistent with the need to minimize flood damage;
 - B. Use construction methods and practices that will minimize flood damage;
 - C. Use construction materials and utility equipment that are resistant to flood damage.
3. No use shall affect the capacity or conveyance of the channel or floodway or any tributary to the main stream, drainage ditch, or any other drainage facility or system.
 4. Structures, buildings and sanitary and utility systems, if permitted, shall meet the applicable performance standards of the Floodway Fringe District and shall be constructed or aligned to present the minimum possible resistance to flood flows.
 5. Buildings, if permitted, shall have a low flood damage potential and shall not be for human habitation.
 6. Storage of materials or equipment that are buoyant, flammable, explosive or injurious to human, animal or plant life is prohibited. Storage of other material may be allowed if readily removable from the Floodway District within the time available after flood warning.
 7. Watercourse alterations or relocations (channel changes and modifications) must be designed to maintain the flood-carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.
 8. Any fill allowed in floodway must be shown to have some beneficial purpose and shall be limited to the minimum amount necessary.
 9. Pipeline river or stream crossing shall be buried in the streambed and banks or otherwise sufficiently

protected to prevent rupture due to channel degradation and meandering or due to the action of flood flows.

(Ord. 243, Sec. 4(C), 1987)

ARTICLE 5

FLOODWAY FRINGE (OVERLAY) DISTRICT (FF)

6-10.0501 PERMITTED USES.

All uses within the Floodway Fringe District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet applicable performance standards of the Floodway Fringe District.

(Ord. 243, Sec. 5(A), 1987)

6-10.0502 PERFORMANCE STANDARDS.

All uses must be consistent with the need to minimize flood damage and shall meet the following applicable performance standards.

1. All structures shall:

A. Be adequately anchored to prevent flotation, collapse or lateral movement of the structure;

B. Be constructed with materials and utility equipment resistant to flood damage; and

C. Be constructed by methods and practices that minimize flood damage.

2. Residential Buildings. All new or substantially improved residential structures shall have the lowest floor, including basements, elevated a minimum of one (1) foot above the one hundred (100) year flood level. Construction shall be upon compacted fill which shall, at all points, be no lower than one (1) foot above the one hundred (100) year flood level and extend at such elevation at least eighteen (18) feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers) may be allowed, subject to favorable consideration by the board of adjustment and issuance of a conditional use permit, where existing topography, street

grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding. All new residential buildings shall be provided with a means of access which will be passable by wheeled vehicles during the one hundred (100) year flood.

3. Non-residential Buildings. All new or substantially improved non-residential buildings shall have lowest floor (including basement) elevated a minimum of one (1) foot above the one hundred (100) year flood level, or together with attendant utility and sanitary systems, be flood proofed to such a level. When flood proofing is utilized, a professional engineer registered in the state shall certify that the flood proofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the one hundred (100) year flood; and that the structure, below the one hundred year (100) year flood level, is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to National Geodetic Vertical Datum) to which any structures are flood proofed shall be maintained by the zoning administrator.

4. All New and Substantially Improved Structures.

A. Fully enclosed areas below the "lowest floor" (not including basements) that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following minimum criteria:

(1) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided,

(2) The bottom of all openings shall be no higher than one (1) foot above grade,

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(4) Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

(Ord.441,2011(part))

B. New and substantially improved structures must be designed (or modified) and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

C. New and substantially improved structures must be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

5. Factory-built Homes.

A. Factory-built homes including those placed in existing factory-built home parks or subdivisions shall be anchored to resist flotation, collapse, or lateral movement.

B. Factory-built homes including those placed in existing factory-built home parks or subdivisions shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the one hundred (100) year flood level.

6. Utility and Sanitary Systems.

A. All new and replacement sanitary sewage systems shall be designed to minimize and eliminate infiltration of floodwaters into the system as well as the discharge of effluent into floodwaters Wastewater treatment facilities shall be provided with a level of flood protection equal

to or greater than one (1) foot above the one hundred (100) year flood elevation.

B. On site waste disposal systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

7.A. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system. Water supply treatment facilities shall be provided with a level of protection equal to or greater than one (1) foot above the one hundred (100) year flood elevation.

B. Utilities such as gas and electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood-damaged or flood-impaired systems.

8. Storage of materials and equipment that are flammable, explosive or injurious to human, animal or plant life is prohibited unless elevated a minimum of one (1) foot above the one hundred (100) year flood level. Other material and equipment must either be similarly elevated or:

A. Not be subject to major flood damage and be anchored to prevent movement due to floodwaters; or

B. Be readily removable from the area within the time available after flood warning.

9. Flood control structural works such as levees, floodwalls, etc., shall provide, at a minimum, protection from a one hundred (100) year flood with a minimum of three (3) feet of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

10. No use shall affect the capacity or conveyance of the channel or floodway of any tributary to the main stream, drainage ditch, or other drainage facility or system.

11. Subdivisions shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals shall meet the applicable performance standards. Subdivision proposals intended for residential development shall provide all lots with a means of vehicular access that will remain dry during the occurrence of the one hundred (100) year flood. Proposals for subdivisions greater than five(5) acres of fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Floodplain (Overlay) District.

(Ord. 441,2010(part))

12. The exemption of detached garages, sheds, and similar structures from the one hundred (100) year flood elevation requirements may result in increased premium rates for insurance coverage of the structure and contents, however, said detached garages, sheds, and similar accessory type structures are exempt from the one hundred (100) year flood elevation requirements when:

A. The structures shall not be used for human habitation;

B. The structure shall be designed to have low flood damage potential;

C. The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters;

D. Structures shall be firmly anchored to prevent flotation which may result in damage to other structures;

E. The structures servicing facilities such as electrical and heating equipment shall be elevated or flood proofed to at least one (1) foot above the one hundred (100) year flood level.

13. RECREATIONAL VEHICLES

A. Recreational vehicles are exempt from the requirements of 6-10.0502(5) of this Ordinance regarding anchoring and elevation of factory-built homes when the following criteria are satisfied.

1. The recreational vehicle shall be located on the site for less than 180 consecutive days, and,

2. The recreational vehicle must be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system and is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

b. Recreational vehicles that are located on the site for more than 180 consecutive days or are not ready for highway use must satisfy requirements of 6-10.0502 (5) of this Ordinance regarding anchoring and elevation of factory-built homes.

(Ord. 441(part)2011;Ord. 299(part), 1993; Ord. 243, Sec. 5(B), 1987)

ARTICLE 6

GENERAL FLOODPLAIN (OVERLAY) DISTRICT (FP)

6-10.0601 PERMITTED USES.

The following uses shall be permitted within the Floodway District to the extent they are not prohibited by any other ordinance (or underlying zoning district) and provided they do not require placement of structures, factory-built homes, fill or other obstruction; the storage of materials or equipment; excavation; or alteration of a watercourse.

1. Agricultural uses such as general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming forestry and farming, and wild crop harvesting;

2. Industrial commercial uses such as loading areas, parking areas, airport landing strips;

3. Private and public recreation uses such as golf courses, tennis courts, driving an, archery ranges, picnic grounds, boat launching ramps, areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails;

4. Residential uses such as lawns, gardens, parking areas and play areas.

(Ord. 243, Sec. 6(A), 1987)

6-10.0602 CONDITIONAL USES.

Any use which involves placement of structures, factory-built homes, fill or other obstructions; the storage of materials or equipment; excavation; or alteration of a watercourse may be allowed only upon issuance of a conditional use permit by the board of adjustment as provided for in Article 9. All such uses shall be reviewed by the Department of Natural Resources to determine:

1. Whether the land involved is either wholly or partly within the floodway or floodway fringe; and

2. The one hundred (100) year flood level.

The applicant shall be responsible for providing the Department of Natural Resources with sufficient technical information to make the determination.

(Ord. 243, Sec. 6(B), 1987)

6-10.0603 PERFORMANCE STANDARDS.

1. All conditional uses, or portions thereof, to be located in the floodway as determined by the Department of Natural Resources shall meet the applicable provisions and standards of the Floodway District (Article 4).

2. All conditional uses, or portions thereof, to be located in the floodway fringe as determined by the Department of Natural Resources shall meet the applicable standards of the Floodway Fringe District (Article 5).

(Ord. 243, Sec. 6(C), 1987)

ARTICLE 7
SHALLOW FLOODING (OVERLAY) DISTRICT (SF)

6-10.0701 PERMITTED USES.

All uses within the Shallow Flooding District shall be permitted to the extent that they are not prohibited by any other ordinance (or underlying zoning district) and provided they meet the applicable performance standards of the Shallow Flooding District. In shallow flooding areas designated as AH/AO Zones on the Flood Insurance Rate Map, drainage paths shall be designed to guide water away from structures located on slopes.

(Ord. 441 2010 (part); Ord. 243, Sec. 7(A), 1987)

6-10.0702 PERFORMANCE STANDARDS.

The performance standards for the Shallow Flooding District shall be the same as the performance standards for the Floodway Fringe District with the following exceptions:

1. In shallow flooding areas designated as an AO zone on the Flood Insurance Rate Map, the minimum flood proofing/ flood protection elevation shall be equal to the number of feet as specified on the Rate Map above the crown of the nearest street.

2. In shallow flooding areas designated as an All zone on the Flood Insurance Rate Map, the minimum flood proofing/ flood protection elevation shall be equal to the elevation as specified on the Rate Map.

(Ord. 243, Sec. 7(B), 1987)

ARTICLE 8
FLOODPLAIN DEVELOPMENT PERMIT

6-10.0801 REQUIRED.

A floodplain development permit issued by the administrator shall be secured prior to initiation of any floodplain development (any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading,

paving, excavation or drilling operations) including the placement of factory-built homes.

(Ord. 243 Sec. 8(B) (1), 1987)

6-10.0802 APPLICATION - CONTENTS.

Application for a floodplain development permit shall be made on forms supplied by the administrator and shall include the following information:

1. Description of the work to be covered by the permit for which application is to be made;
2. Description of the land on which the proposed work is to be done (i.e., lot, block, tract, street address or similar description) that will readily identify and locate the work to be done;
3. Indication of the use of occupancy for which the proposed work is intended;
4. Elevation of the one hundred (100) year flood;
5. Elevation (in relation to National Geodetic Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be flood proofed;
6. For buildings being improved or rebuilt, the estimated cost of improvements and market value of the building prior to the improvements;
7. Such other information as the administrator deems reasonably necessary for the purpose of this chapter.

(Ord. 243, Sec. 8(B) (2), 1987)

6-10.0803 APPLICATION - ACTION BY ADMINISTRATOR.

The administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable provisions and standards of this chapter and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The admin-

istrator shall not issue permits for conditional uses or variances except as directed by the board of adjustment.

(Ord. 243, Sec. 8(B)(3), 1987)

6-10.0804 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATION AND PLANS.

Floodplain development permits issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter and shall be punishable as provided in Article 13. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the state, that the finished fill, building floor elevations, flood proofing, or other flood protection measures were accomplished in compliance with the provisions of this chapter, prior to the use or occupancy of any structure.

(Ord. 243, Sec. 8(B) (4), 1987)

ARTICLE 9

CONDITIONAL USES, APPEALS, AND VARIANCES

6-10.0901 APPOINTMENT AND DUTIES OF BOARD OF ADJUSTMENT.

A board of adjustment is established which shall hear and decide:

1. Applications for conditional uses upon which the board is authorized to pass under this chapter;

2. Appeals; and

3. Requests for variances to the provisions of this chapter; and shall take any other action which is required by the board.

(Ord. 243, Sec. 8(C) (1), 1987)

6-10.0902 CONDITIONAL USES.

Requests for conditional uses shall be submitted to the administrator, who shall forward such to the board of

adjustment for consideration. Such requests shall include information ordinarily submitted with applications as well as any additional information deemed necessary by the board of adjustment.

(Ord. 243, Sec. 8(C)(2), 1987)

6-10.0903 APPEALS.

Where it is alleged there is any error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter, the aggrieved party may appeal such action. The notice of appeal shall be filed with the board of adjustment and with the official from whom the appeal is taken and shall set forth the specific reason for the appeal. The official from whom the appeal is taken shall transmit to the board of adjustment all the papers constituting the record upon which the action appealed from was taken.

(Ord. 243, Sec. 8(C) (3), 1987)

6-10.0904 VARIANCES.

The board of adjustment may authorize upon request in specific cases such variances from the terms of this chapter that will not be necessary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship. Variances granted must meet the following applicable standards:

1. No variance shall be granted for any development within the Floodway District which would result in any increase in the one hundred (100) year level. Consideration of the effects of any development on flood levels shall be based upon the assumption that an equal degree of development would be allowed for similarly situated lands.

2. Variances shall only be granted upon:

A. A showing of good and sufficient cause;

B. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

C. A determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, on extraordinary public expense; create nuisances, or cause fraud on victimization of the public.

3. Variance shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this chapter, the applicant shall be notified in writing over the signature of the zoning administrator that:

A. The issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as twenty-five (\$25.00) dollars for one hundred (\$100.00) dollars of insurance coverage; and

B. Such construction increases risks to life and property.

5. All variances granted shall have the concurrence or approval of the Department of Natural Resources.

(Ord. 243, Sec. 8(C) (4), 1987)

6-10.0905 HEARINGS OF THE BOARD OF ADJUSTMENT.

Upon the filing with the board of adjustment of an appeal, an application for a conditional use on a request for a variance, the board shall hold a public hearing. The board shall fix a reasonable time for the hearing and give public notice thereof, as well as due notice to parties in interest. At the hearing, any party may appear in person or by agent or attorney and present written or oral evidence. The board may require the appellant or applicant to provide such information as is reasonably deemed necessary and make request the technical assistance and/or evaluation of a professional engineer or other expert person or agency, including the Department of Natural Resources.

(Ord. 243, Sec. 8(C)(5)(a), 1987)

6-10.0906 DECISIONS OF THE BOARD OF ADJUSTMENT.

The board shall arrive at a decision on an appeal, conditional use or variance within a reasonable time. In passing upon an appeal, the board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination appealed from, and it shall make its decision, in writing, setting forth the findings of fact and the reasons for its decision. In granting a conditional use or variance, the board shall consider such factors as contained in this section and all other relevant sections of this chapter and may prescribe such conditions as contained in Section 6-10.0908.

(Ord. 243, Sec. 8(C) (5) (b)(part), 1987)

6-10.0907 FACTORS UPON WHICH THE DECISION OF THE BOARD SHALL BE BASED.

In passing upon applications for conditional uses or requests for variances, the board shall consider all relevant factors specified in other section of this chapter:

1. The danger to life and property due to increased flood heights or velocities caused by encroachments;
2. The danger that materials may be swept onto other lands or downstream to the injury of others;
3. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions;
4. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
5. The importance of the services provided by the proposed facility to the community;
6. The requirements of the facility for a flood-plain location;
7. The availability of alternative locations not subject to flooding for the proposed use;

8. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

9. The relationship of the proposed use to the comprehensive plan and the floodplain management program for the area;

10. The safety of access to the property in times of flood for ordinary and emergency vehicles;

11. The expected heights, velocity, duration, rate of rise and sediment transport of the floodwater expected at the site;

12. Such other factors which are relevant to the purpose of this chapter.

(Ord. 243, Sec. 8(C)(5)(b)(1), 1987)

6-10.0908 CONDITIONS ATTACHED TO CONDITIONAL USES OR VARIANCES.

Upon consideration of the factors listed above, the board may attach such conditions to the granting of conditional uses or variances as it deems necessary to further the purpose of this chapter. Such conditions may include, but not necessarily be limited to:

1. Modification of waste disposal and water supply facilities;

2. Limitation on periods of use and operation;

3. Imposition of operational controls, sureties, and deed restrictions;

4. Requirements for construction of channel modification, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purposes of this chapter;

5. Flood proofing Measures. Flood proofing measures shall be designed consistent with the flood protection elevation for the particular area, flood velocities, dura-

tions, rate of rise, hydrostatic and hydrodynamic forces, and other factors associated with the regulatory flood. The board of adjustment shall require that the applicant submit a plan or document certified by a registered professional engineer that the flood proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area. Such flood proofing measures may include, but are not necessarily limited to the following:

- A. Anchorage to resist flotation and lateral movement,
- B. Installation of watertight doors, bulkheads, and shutters, or similar methods of construction,
- C. Reinforcement of walls to resist water pressures,
- D. Use of paints, membranes, or mortars to reduce seepage of water through walls,
- E. Addition of mass or weight structures to resist flotation,
- F. Installation of pumps to lower water levels in structures,
- G. Construction of water supply and waste treatment systems so as to prevent the entrance of floodwaters,
- H. Pumping facilities or comparable practices for subsurface drainage systems for building to relieve external foundation wall and basement flood pressures,
- I. Construction to resist rupture or collapse caused by water pressure or floating debris,
- J. Installation of valves or controls on sanitary and storm drains which will permit the drains to be closed to prevent backup of sewage and stormwaters into the buildings or structures,

K. Location of all electrical equipment, circuits and installed electrical appliances in a manner which will assure they are not subject to flooding;

6. Appeals to the Court. Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment may present to court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty days after the filing of the decision in the office of the board.

(Ord. 243, Sec. 8(C) (5) (b) (2), 1987)

ARTICLE 10 NON-CONFORMING USES

6-10.1001 CONTINUANCE.

A structure on the use of a structure of land which was lawful before the passage or amendment of the ordinance codified in this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

1. No such use shall be expanded, changed, enlarged, or altered in a way which increases its non-conformity.
2. No structural alteration, addition, or repair to any non-conforming structure over the life of the structure shall exceed fifty (50) percent of its value at the time of its becoming a non-conforming use, unless the structure is permanently changed to a conforming use.
3. If such use is discontinued for thirty-six (36) consecutive months, any future use of the building premises shall conform to this chapter. The assessor shall notify the zoning administrator in writing of instances of non-conforming uses which have been discontinued for thirty-six (36) months.
4. If any non-conforming use or structure is destroyed by any means, including floods, to an extent of

fifty (50) percent or more of its value prior to destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

5. Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as non-conforming uses.

6. Except as provided in subsection E of this section, any use which has been permitted as a conditional use on variance shall be considered a conforming use.

(Ord. 243, Sec. 9, 1987)

ARTICLE 11 AMENDMENTS

6-10.1101 AUTHORIZED.

The regulations, restrictions and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or repealed as provided in Sections 414.4, 414.5, and 414.21, Code of Iowa, 1979, as amended. No amendment, supplement, change, or modifications to this chapter shall be undertaken without prior approval from the Department of Natural Resources Council.

(Ord. 243, Sec. 12, 1987)

ARTICLE 12 ADMINISTRATION

6-10.1201 APPOINTMENT, DUTIES AND RESPONSIBILITIES OF ZONING ADMINISTRATOR.

1. A zoning administrator designated by the city council shall administer and enforce this chapter and will herein be referred to as the administrator.

2. Duties and responsibilities of the administrator shall include, but not necessarily be limited to, the following:

A. Review all floodplain development permit applications to insure that the provisions of this chapter will be satisfied;

B. Review all floodplain development permit applications to insure that all necessary permits have been obtained from federal, state or local governmental agencies;

C. Record and maintain a record of:

(1) The elevation (in relation to National Geodetic Vertical Datum) of the lowest floor of all new or substantially improved buildings, or

(2) The elevation to which new or substantially improved structures have been flood proofed;

D. Notify adjacent communities and/or counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Insurance Administrator;

E. Keep a record of all permits, appeals, variances and such other transactions and correspondence pertaining to the administration of this chapter;

F. Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administration;

G. Notify the Federal Insurance Administration of any annexation or modifications to the community's boundaries.

H. Review subdivision proposals to insure such proposals are consistent with the purpose of this chapter and advise the city council of potential conflicts.

(Ord. 243, Sec. 8(A), 1987)

ARTICLE 13
PENALTIES FOR VIOLATION

6-10.1301 DESIGNATED.

Violations of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of conditional uses or variances) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than one hundred (\$100.00) dollars or be imprisoned for not more than thirty (30) days. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 243, Sec. 10, 1987)

CHAPTER 11 - REGULATION OF WEEDS

6-11.01 NOXIOUS WEEDS ENUMERATED.

The following weeds are hereby declared to be noxious: Quack grass, *Agropyron repens*; perennial sow thistle, *Sonchus arvensis*; Canada thistle, *Cirsium arvense*; bull thistle, *cirsium lanceolatum*; European morning glory or field bindweed, *Convolvulus arvensis*; horse nettle, *Solanum carolinense*; leafy spurge, *Euphorbia esula*; perennial pepper-grass, *Lepidium draba*; Russian knapweed, *Centaurea repens*; buckthorn, *Rhamnus* and all other species of thistles belonging in genera of *Cirsium* and *Carduus*; butterprint, *Abutilon theophrasti* annual; cocklebur, *Xanthium commune*, annual; wild mustard, *Brassica arvensis*, annual; wild carrot, *Daucus carota*, biennial; buckhorn, *Plantago lanceolata*, perennial; sheep sorrel, *Rumex acetosella*, perennial; sour dock, *Rumex crispus*, perennial; smooth dock, *Rumex altissimi-mus*, perennial; puncture vine, *Tribulus terrestris*, annual; teasel, *Dipsacus*, biennial.

(Ord. 300, Sec. 1 (part), 1994)

6-11.02 WEEDS TO BE DESTROYED.

All owners and persons in possession or control of any lands within the city shall:

1. Prevent the growth of noxious weeds from reaching maturity or blooming by cutting or destroying same.

2. Cut or destroy all weeds, vines, brush or other growth when said growth exceeds ten (10) inches in height in all developed areas or within two hundred (200) feet of any developed area or urban street. In other areas of the city, all weeds, vines, brush or other growth shall be cut or destroyed when said growth exceeds two (2) feet. Natural areas, including but not limited to waterways or farmland, may exceed these established height limitations.

3. Prevent any growth of weeds, vines, brush or other plant material which constitutes a health, safety or fire hazard regardless of height.

(Ord. 300, Sec. 1 (part), 1994)

6-11.0201 REGULATION OF GRASS HEIGHT.

1. All owners and persons in possession or control of any lands within the city shall mow or cut all grass when it becomes a height of ten (10) inches or more.

2. If a property owner or person in possession of lands within the city fails to mow or cut the grass, as set out in this section and after notice is given to the property owner or person in possession of the land, the director of public works or such person's designee shall order the work to be done.

3. Time for Cutting Grass and Assessment of Costs. The total cost and expense of destroying the grass shall be paid and assessed against the land as provided by law. The costs may be established by the council from time to time by resolution.

4. Notice to Owners. Notice to the owner or person in control of lands within the city subject to the provision of this chapter shall be as follows: the director of public works shall cause to be published on or before April 15th of each year in a newspaper of general circulation within the city a notice stating that work of mowing or cutting the grass is required to be done during the months of May through October, inclusive, and a statement

that property owners have five (5) days not including Saturdays, Sundays, holidays and within which such owners may cause the work to be done. Further, the notice shall state that failure to comply after publication of the notice will result in the work being done by the city, and the costs incurred by the city shall be assessed against the property in the manner provided by law. No further notice shall be required.

5. Billing. Each owner shall be sent by first class mail to the address noted on the tax rolls of the city a bill for the work performed informing the owner of the cost of such work and the council intent to assess the cost if not paid in ten (10) days to the city clerk. Any bill remaining unpaid after the ten (10) day period may be assessed against the property in the manner provided by law.

(Ord. 349, 1997)

6-11.03 TIME FOR CUTTING WEEDS AND ASSESSMENT OF COSTS.

1. If a property owner or person in possession of lands within the city fails to destroy the weeds, vines, brush or other growth as set out in this chapter and after notice is given as provided by this chapter, the director of public works or such person's designee shall order the work to be done.

2. The total cost and expense of destroying the weeds or growth shall be paid and assessed against the land as provided by law. Costs may be established by the council from time to time by resolution.

(Ord. 300, Sec. 1 (part), 1994)

6-11.04 NOTICE TO OWNERS.

Notice to the owner or person in control of lands within the city subject to the provision of this chapter shall be as follows: The director of public works shall cause to be published on or before April 15 of each year in a newspaper of general circulation within the city a notice stating that work of cutting or destroying weeds, vines, brush or other growth is required to be done during the months of May through October, inclusive, and a statement that property owners have five (5) days, not includ-

ing Saturdays, Sundays, holidays, within which such owners may cause the work to be done. Further, the notice shall state that failure to comply after publication of the notice will result in the work being done by the city, and the costs incurred by the city shall be assessed against the property in the manner provided by law. No further notice shall be required.

(Ord. 300, Sec. 1 (part), 1994)

6-11.05 BILLING.

Each owner shall be sent by first class mail to the address noted on the tax rolls of the city a bill for the work performed informing the owner of the cost of such work and the council's intent to assess the cost if not paid in ten (10) days to the city clerk. Any bill remaining unpaid after the ten (10) day period may be assessed against the property in the manner provided by law.

(Ord. 300, Sec. 1 (part), 1994)

CHAPTER 12 - RENTAL DWELLING INSPECTION CODE

ARTICLE 1

TITLE, PURPOSE AND SCOPE

6-12.0101 TITLE.

These regulations shall be known as the rental dwelling inspection code, and may be cited as such and will be referred to herein as "this code." Any reference to the Uniform Building Code, the Uniform Fire Code, or any other codes mentioned herein, shall be to such codes as adopted by the city of Buffalo, Iowa.

(Ord. 305 (part), 1995)

6-12.0102 PURPOSE.

The purpose of this code is to provide minimum standards to safeguard life or limb, health, property and public welfare by regulating and controlling the use and occupancy, location and maintenance of all residential rental dwellings and structures within this jurisdiction.

The purpose of this code is not to create or otherwise establish or designate any particular class or group

of persons who will or should be especially protected or benefited by the terms of this code.

The purpose of this code is to provide for the administration and enforcement of this code and certain technical codes adopted by the city.

Administration and enforcement is a function of the city and a rental dwelling inspection officer appointed by the city.

This code has been adopted and is to be used in conjunction with other city codes and should not be construed to include all regulations pertaining to buildings and development. This code shall be applied in conjunction with other codes of the city and nothing in this chapter shall be interpreted as prohibiting or limiting enforcement by the inspection official or any other agency of the city, of any other city, county, or state codes and ordinances as have been adopted and amended by those respective jurisdictions.

(Ord. 305 (part), 1995)

6-12.0103 SCOPE.

The provisions of this code shall apply to all buildings or portions thereof used, or designed, or intended to be used as rental dwellings. This code shall further apply to all accessory structures and any nuisance as defined by this code that may exist in such building or the building's yard.

Where any building or portion thereof is used or intended to be used as a combination apartment, house-hotel, the provisions of this code shall apply to the separate portions as if they were separate buildings.

Every rooming house or lodging house shall comply with all requirements of this code for dwellings.

(Ord. 305 (part), 1995)

6-12.0104 EXISTING INSTALLATIONS.

Buildings in existence at the time of the adoption of this code may have their existing use or occupancy continued, if such use or occupancy was legal at the time of the

adoption of this code, provided such continued use is not dangerous to life, unsafe or a fire hazard.

Any change in the use or occupancy of any existing building or structure shall comply with the provisions of any other applicable code or ordinance of the city and the Uniform Building Code as adopted by the city.

(Ord. 305 (part), 1995)

6-12.0105 DEFINITIONS.

For the purpose of this code, certain terms, phrases, words and their derivatives shall be construed as specified in this section. Where terms are not defined in this section or by this code, they shall have their ordinary accepted meanings within the context in which they are used. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. The following definitions, as well as all applicable definitions contained in those portions of the city code devoted to buildings and zoning, are hereby adopted as part of this code.

1. "Accessory structures" are garages, carports, sheds, agricultural buildings, fences, tanks, towers, and other such structures.

2. "Garage" is any structure designed for the storage or repair of motor vehicles.

3. "Health officer" is the legally designated head of the department of health of this jurisdiction, or of Scott County, Iowa.

4. "Rental dwelling inspection code" is this code as written and adopted by the City of Buffalo, Iowa.

5. "Inspection official" or chief housing official is the officer designated by the appointing authority and charged with the administration and enforcement of this code, or his duly authorized representative. Any references in this code to the building official shall mean the rental dwelling or housing inspector or official designated by the city to administer and enforce this code.

6. "Nuisance" shall include any of the following:

A. Any public nuisance known at common law or in equity jurisprudence;

B. Any attractive nuisance which may prove detrimental to children whether in a building or on the premises of a building. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles, or any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation which may prove a hazard for inquisitive minors;

C. Whatever is dangerous to human life or is detrimental to health, as determined by the health officer;

D. Overcrowding a room with occupants;

E. Insufficient ventilation or illumination;

F. Inadequate or unsanitary sewage or plumbing facilities;

G. Uncleanliness, as determined by the health officer;

H. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer.

7. "Owner." See "Record owner."

8. "Owner-occupied dwelling" is any dwelling occupied by the legal holder of deed or contract purchaser.

9. "Record owner" is the contract purchaser as legally recorded and shown by the records of the Scott County auditor's office, and the record holder of legal Title.

10. "Rental dwelling" is any dwelling that is not occupied by the legal holder of deed or contract purchaser.

11. "Yard" is an open unoccupied space, other than a court, unobstructed from the ground to the sky except where specifically provided by this code, on the lot in which a building is situated.

(Ord. 305 (part), 1995)

ARTICLE 2
ORGANIZATION AND ENFORCEMENT

6-12.0201 RESPONSIBILITIES DEFINED.

Every owner remains liable for violations of duties imposed upon him by this code even though an obligation is also imposed on the occupants of his building, and even though the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this code.

All buildings and structures and all parts thereof shall be maintained in a safe and sanitary condition. The owner or his designated agent shall be responsible for such maintenance. To determine compliance with this subsection, the building may be reinspected.

Every owner, or his agent, in addition to being responsible for maintaining his building in a sound structural condition, shall be responsible for keeping that part of the building or premises which he occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.

Every owner shall, where required by this code, the health ordinance or the health officer, furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation, and where infestation has taken place, shall be responsible for the extermination of any insects, rodents or other pests when such extermination is not specifically made the responsibility of the occupant by law or ruling.

Every occupant of a dwelling unit, in addition to being responsible for keeping in a clean, sanitary and safe condition that part of the dwelling or dwelling unit or premises which he occupies and controls, shall dispose of all his rubbish, garbage and other organic waste in a manner required by ordinance and approved by the housing official.

Every occupant shall, where required by this code, the health ordinance or the health officer, furnish and maintain approved devices, equipment or facilities necessary to keep his premises safe and sanitary.

(Ord. 305 (part), 1995)

6-12.0202 HOUSING CODE BOARD OF APPEALS.

1. General. In order to hear and decide appeals of orders, decisions or determinations made by the housing official relative to the application and interpretations of this code, there shall be and is hereby created a housing code board of appeals consisting of five (5) members who are qualified by experience and training to pass upon matters pertaining to building construction, real estate, property management or related fields and who are not employees of the jurisdiction. All members of the board shall be residents of the city. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the housing official. Appeals to the board shall be processed in accordance with the provisions contained in this code. Copies of all rules of procedure adopted by the board shall be delivered to the housing official, who shall make them accessible to the public.

2. Power and Duty. A simple majority of the board shall constitute a quorum to transact the business of the board. A simple majority of the members present by voice vote shall be required on action by the board.

3. Any person, firm or corporation, or any officer, department, board or bureau aggrieved by any order, requirement, decision or determination made by the housing official on all matters pertaining to buildings or structures or occupancy included in this code shall have the

right to appeal to the housing code board of appeals of the city under regulations and procedures set forth in applicable ordinances of the city.

4. An appeal may be taken to the housing code board of appeals upon payment of a filing fee to the city.

5. The members of the housing code board of appeals shall be appointed by the mayor, subject to the approval of the city council and every member shall hold office for a term of five years. Terms of the members shall be so staggered so that there is a least one (1) regular appointment or reappointment each regular year. The expiration date of all terms of office shall be the first Monday in April, and all members shall hold office until their successors are appointed and approved.

6. The board shall establish a regular meeting date and shall hold all meetings in Buffalo, Iowa.

7. The board shall choose a chairperson who shall perform duties as established by the board.

(Ord. 305 (part), 1995)

6-12.0203 VIOLATIONS.

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

(Ord. 305 (part), 1995)

ARTICLE 3 LICENSING, PERMITS AND INSPECTIONS

6-12.0301 REQUIREMENT FOR RENTAL PROPERTY.

1. General. It shall be a violation of this code for any person to let to another for rent and/or occupancy any dwelling, dwelling unit, duplex, multiple dwelling, sleeping room, single-family dwelling, or condominium unless:

A. The owner or agent holds a valid certificate of structure compliance, issued by the city, applicable to those portions of the specific structure used for residential rental purposes or affecting any areas used for residential rental purposes; and

B. The owner or agent holds a valid rental license issued by the city, in the name of the owner or agent, applicable to those portions of the specific structure used for residential rental purposes.

2. Certificate of Structure Compliance. The certificate of structure compliance, when issued, shall certify that the requirements of this code are met. The certificate shall be transferable at the time of a change in ownership and shall be maintained as a public record of the city. The certificate, in and of itself, shall not be interpreted as granting the owner or operator the privilege of letting the structure for residential occupancy, but must be accompanied by a valid rental license. The certificate of structure compliance shall state the date of issuance and the address of the structure to which it is applicable. All dwelling units and sleeping rooms being let for rent and/or occupancy without a valid certificate of structure compliance may be ordered vacated.

3. Issuance of Certificate of Structure Compliance. When the provisions of this code have been complied with by the owner or operator, along with payment of the required fees, the city shall issue a certificate of structure compliance. The certificate of structure compliance shall expire two years from the date of the dwelling inspection. However, the certificate of structure compliance may expire four years from the date of the licensing inspection for single and two-family structures pursuant to subsection 7 of this section.

4. Revocation of Certificate of Structure. When there exists a material and substantial noncompliance with this chapter which directly affects the health, life, safety or property of the occupants or the public, the city may revoke the certificate of structure compliance in whole, or modify the certificate to reflect the compliance of each dwelling unit or sleeping room within a structure.

5. Rental License. A rental license shall be a document issued to each individual property that is properly registered with the city and shall be valid for one (1) year. The document shall be transferable from one owner or agent to another at any time prior to its expiration, termination or revocation. The owner or agent shall notify the city of any change of interest or ownership in the property within thirty (30) days of any conveyance or transfer of interest affecting the property and provide the name and address of all persons who have acquired an interest therein. In the event the city has not been notified of such conveyance or transfer within the designated period of time, the rental license may be transferred from one (1) owner or agent to another upon payment of a fee, the amount of which shall be established by resolution of the city council. The fee shall be assessed to the new owner or agent. The rental license shall state the date of issuance, the address of the structure to which it is applicable and its expiration date. All dwelling units and sleeping rooms being let for rent and/or occupancy without a valid rental license with the city and fees paid may be ordered vacated and/or the owner shall be subject to a fine, the amount of which shall be established by the city council.

G. Registration or Rental Property. It is the responsibility of the owner and/or agent of any building used for rental purposes as defined by this code to register said building with the city for the purpose of rental licensing.

7. Dwelling Inspection Schedule.

A. A building will be placed on a two (2) year inspection schedule:

Exception: Single and two (2) family structures which successfully comply at the time of the two (2) year inspection and have continuous compliance with this code may be placed on a four (4) year inspection schedule.

8. Issuance of a Rental License. The city shall issue a rental license upon payment of all fees and/or penalty fees as applicable.

9. Revocation of a Rental License. The housing official or designee shall have the authority to revoke a rental license on any building that is in continual non-compliance with this chapter. The owner or agent of the affected property shall be notified in writing by certified mail of the license revocation.

10. Appointments for Inspection. Appointments for inspections with the owner/agent of the building shall be scheduled by the city. The owner/agent may request the appointment to be rescheduled. However, the inspection shall be performed within thirty (30) days of the original date unless modified by the housing code board of appeals or housing official. An owner/agent shall be required to arrange for access to all portions of the building. Failure to provide access to all portions of the building shall prevent the issuance of a certificate of structure compliance, and thus compliance with the law. The owner/agent shall notify all tenants of the inspection in accordance with Iowa law.

11. General Procedures for Inspections. Inspections shall not be:

A. Conducted with a minor as the sole representative of the owner;

B. Conducted against the will of the tenant without the building owner/agent present;

C. Conducted without prior notice to the tenant, as required by state law;

D. Conducted of an occupied dwelling without the owner/agent or tenant of the dwelling or designated agent being present.

Should the person in control of the unit refuse admittance to the housing official or designee and refuse to reschedule the licensing inspection or reinspection, a re-

quest to the court to issue a search warrant may be prepared, subject to approval by the legal department.

All areas of each dwelling governed by this code shall be inspected. Should access not be obtained to all areas, a reinspection must be scheduled and an additional fee may be charged for each subsequent reinspection in accordance with the established fee schedule.

(Ord. 305 (part), 1995)

6-12.0302 HOUSING CODE FEE SCHEDULE.

Fees shall be charged for services rendered in relation to this code. These services include but are not limited to the following: licenses, reinspections, failure to appear for inspections or reinspections, late cancellations, and appeals. The amount shall be established by resolution of the city council.

(Ord. 305 (part), 1995)

ARTICLE 4
TECHNICAL REQUIREMENTS

6-12.0401 STRUCTURAL REQUIREMENTS.

1. General. Buildings or structures may be of any types of construction permitted by the building code. Roofs, floors, walls, foundations and all other structural components of buildings shall be capable of resisting any and all forces and loads to which they may be subjected. All structural elements shall be proportioned and joined in accordance with the stress limitations and design criteria as specified in the appropriate sections of the building code. Buildings of every permitted type of construction shall comply with the applicable requirements of the building code.

2. Shelter. Every building shall be weather protected so as to provide shelter for the occupants against the elements and to exclude dampness.

3. Protection of Materials. All wood shall be protected against termite damage and decay as provided in the building code.

4. Maintenance of Accessory Structures. Every foundation, exterior wall, roof, windows, door and appurtenance of every accessory structure shall be properly maintained.

(Ord. 305 (part), 1995)

6-12.0402 SPACE AND OCCUPANCY STANDARDS.

1. Room Dimensions.

A. Ceiling Heights. Habitable space shall have a ceiling height of not less than seven (7) feet six (6) inches except as otherwise permitted in this section. Kitchens, halls, bathrooms and toilet compartments may have a ceiling height of not less than seven (7) feet measured to the lowest projection from the ceiling. Where exposed beam ceiling members are spaced at less than forty-eight (48) inches on center, ceiling height shall be measured to the bottom of the deck supported by these members, provided that the bottom of the members is not less than seven (7) feet above the floor.

If any room in a building has a sloping ceiling, the prescribed ceiling height for the room is required in only one-half ($1/2$) the area thereof. No portion of the room measuring less than five (5) feet from the finished floor to the finished ceiling shall be included in any computation of the minimum area thereof.

If any room has furred ceiling, the prescribed ceiling height is required in two-thirds ($2/3$) the area thereof, but in no case shall the height of the furred ceiling be less than seven (7) feet.

B. Floor Area. Every dwelling unit shall have at least one (1) room which shall have not less than one hundred twenty (120) square feet of floor area. Other habitable rooms, except kitchens, shall have an area of not less than seventy (70) square feet. Where more than two (2) persons occupy a room used for sleeping purposes, the required floor area shall be increased at the rate of fifty (50) square feet for each occupant in excess of two (2).

EXCEPTION: Nothing in this section shall prohibit the use of an efficiency living unit within an apartment house meeting the following requirements:

(1) The unit shall have a living room of not less than two hundred twenty (220) square feet of superficial floor area. An additional one hundred (100) square feet of superficial floor area shall be provided for each occupant of such unit in excess of two (2).

(2) The unit shall be provided with a separate closet.

(3) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than thirty (30) inches in front. Light and ventilation conforming to this code shall be provided.

(4) The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

C. Width. No habitable room other than a kitchen shall be less than thirty (30) inches in width and a clear space in front of the water closet stool of not less than twenty-four (24) inches shall be provided.

2. Light and Ventilation.

A. Natural Light and Ventilation. All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural light by means of exterior glazed openings with an area not less than one-tenth ($1/10$) of the floor area of such rooms with a minimum of ten (10) square feet. All bathrooms, water closet compartments, laundry rooms and similar rooms shall be provided with natural ventilation by means of openable exterior openings with an area not less than one twentieth ($1/20$) of the floor area of such rooms with a minimum of one and one-half ($1\frac{1}{2}$) square feet.

All guest rooms, dormitories and habitable rooms within a dwelling unit shall be provided with natural ven-

tilation by means of openable exterior openings with an area of not less than one-twentieth ($\frac{1}{20}$) of the floor area of such rooms with a minimum of five (5) square feet.

B. Origin of Light and Ventilation. Required exterior openings for natural light and ventilation shall open directly onto a street or public alley or a yard or court located on the same lot as the building.

EXCEPTION: Required windows may open into a roofed porch where the porch:

- (1) Abuts a street, yard, or court; and
- (2) Has a ceiling height of not less than seven (7) feet; and
- (3) Has the longer side at least sixty-five (65) percent open and unobstructed.

A required window in a service room may open into a vent shaft which is open and unobstructed to the sky and not less than four (4) feet in least dimension. No vent shaft shall extend through more than two (2) stories.

For the purpose of determining light and ventilation requirements, any room may be considered as a portion of an adjoining room when one-half ($\frac{1}{2}$) of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth ($\frac{1}{10}$) of the floor area of the interior room or twenty-five (25) square feet, whichever is greater.

C. Mechanical Ventilation. In lieu of required exterior openings for natural ventilation, a mechanical ventilation system may be provided. Such system shall be capable of providing two (2) air changes per hour in all guest rooms, dormitories, habitable rooms and in public corridors. One-fifth ($\frac{1}{5}$) of the air supply shall be taken from the outside. In bathrooms containing a bathtub or shower or combination thereof, laundry rooms, and similar rooms, a mechanical ventilation system connected directly to the outside capable of providing five (5) air changes per hour shall be provided. The point of discharge of ex-

haust air shall be at least five (5) feet from any mechanical ventilating intake. Bathrooms which contain only a water closet or lavatory or combination thereof, and similar rooms may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

D. Hallways. All public hallways, stairs and other exitways shall be adequately lighted at all times in accordance with applicable Uniform Building Code requirements.

3. Sanitation.

A. Dwelling Units and Lodging Houses. Every dwelling unit and every lodging house shall be provided with a bathroom equipped with facilities consisting of a water closet, lavatory, and either a bathtub or shower.

B. Kitchen. Each dwelling unit shall be provided with a kitchen. Every kitchen shall be provided with a kitchen sink. Wooden sinks or sinks of similarly absorbent material shall not be permitted.

C. Fixtures. All plumbing fixtures shall be connected to a sanitary sewer or to an approved private sewage disposal system. All plumbing fixtures shall be connected to an approved system of water supply and provided with hot and cold running water necessary for its normal operation.

All plumbing fixtures shall be of an approved glazed earthenware type or of a similarly nonabsorbent material.

D. Room Separations. Every water closet, bathtub or shower required by this code shall be installed in a room which will afford privacy to the occupant. Bathrooms must be separated from all other rooms by a tight fitting door.

E. Installation and Maintenance. All sanitary facilities shall be installed and maintained in safe and sanitary condition and in accordance with applicable requirements of the plumbing code.

F. Floor Coverings. All kitchen and bathroom floors shall be covered with a properly installed and maintained floor covering. An absorbent floor covering shall be permitted if adequately maintained. Any absorbent floor covering allowed to deteriorate, thus creating a health or safety hazard to the occupants shall be removed and replaced by the property owner with a new floor covering.

(Ord. 305 (part), 1995)

6-12.0403 MECHANICAL REQUIREMENTS.

1. Heating and Ventilation. Every dwelling unit and sleeping room shall be provided with heating facilities capable of maintaining a room temperature of seventy (70) degrees Fahrenheit at a point three (3) feet above the floor in all habitable rooms. Every person, including any owner, agent, manager or renter who maintains or regulates the temperature control for any building or portion thereof which is occupied for living or sleeping purposes by any person is hereby directed to maintain sufficient heat in all rooms so occupied to produce a temperature of not less than seventy (70) degrees Fahrenheit between the hours of six-thirty A.M. and ten-thirty P.M., of each day, and shall maintain a temperature of not less than sixty (60) degrees Fahrenheit from ten-thirty P.M. until six-thirty A.M. of each day, and it shall be the duty of every manager or other employee who shall assume or be engaged in employment to operate the furnace or heating plant of any such building aforesaid, to maintain such heat as aforesaid and as this section provides and defines.

Such facilities shall be installed and maintained in a safe condition and in accordance with the mechanical code, and all other applicable laws. No unvented, fuel-burning heater shall be permitted. All heating devices or appliances shall be of an approved type.

Any fuel burning device or appliance no longer in use shall be required to have the fuel supply lines and venting source property disconnected and capped or sealed.

2. Electrical Equipment. All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of an approved type.

Where there is electrical power available within three hundred (300) feet of any building, such building shall be connected to such electrical power. Every habitable room shall contain at least two (2) electrical convenience outlets or one (1) convenience outlet and one (1) electric light fixture. Every water closet compartment, bathroom, laundry room, furnace room and public hallway shall contain at least one (1) electric light fixture.

3. Ventilation. Ventilation for rooms and areas and for fuel-burning appliances shall be provided as required in the mechanical code and in this code. Where mechanical ventilation is provided in lieu of the natural ventilation required by this code, such mechanical ventilating system shall be maintained in operation during the occupancy of any building or portion thereof.

4. Shut-Off Valves. All mechanical appliances and equipment fueled by gas shall have an approved mechanical shut-off valve located within thirty-six (36) inches of the appliance or equipment and installed according to Uniform Mechanical Code.

5. Appliance Location. No unapproved vented or unvented fuel burning appliance shall be placed or installed in any room used or designed to be used as a guest room, bathroom or sleeping room.

(Ord. 305 (part), 1995)

6-12.0404 EXITS.

1. Purpose. The purpose of this section is to provide a reasonable degree of safety to persons living and sleeping in apartment houses and hotels by providing for alterations to such existing buildings that do not conform with the minimum safety requirements of this code.

2. General. Every dwelling unit or guest room shall have access directly to the outside or to the public corridor.

A. Every sleeping room in every dwelling unit below the fourth story shall have at least one (1) operable window or exterior door approved for emergency egress or res-

cue. The units shall be operable from the inside to provide a full clear opening without the use of separate tools.

B. Exits Through Hazardous Areas. Exits which pass through a hazardous area shall not be included in those considered as required exits unless such exits are protected by an approved automatic fire extinguishing system. Hazards may include any equipment such as furnaces, boilers, ovens, incinerators, or rooms containing storage of flammables, garages, rooms used for paint storage or other areas not approved by the fire marshal.

C. Alternates. No alternate method of obtaining safety required by this section may be used unless the housing code board of appeals finds that such alternate method provides protection and safety equivalent to that required herein.

D. Number of Exits. Every dwelling unit and every guest room shall have access to not less than two (2) exits.

EXCEPTIONS ALLOWING ONE (1) UNIT:

(1) Dwelling units and guest rooms which are at grade level and have one (1) exterior door opening directly to the outside air into and upon a yard, exit court or public way;

(2) Dwelling units and guest rooms served by a single exit where the total occupant load served by such single exit does not exceed ten (10) and such dwelling units or guest rooms are located below the third story;

(3) When the third floor within an individual dwelling unit does not exceed five hundred (500) square feet, only one (1) exit need be provided from that floor;

(4) Dwelling units which have their own private exit hall or exit stair which is not used as a required exit for other dwelling units or guest rooms when such dwelling units are located below the third story.

E. Fire escapes may be used as one (1) means of egress, if approved by the fire marshal. An existing ladder device or a ladder device when used in lieu of a fire escape shall be approved by the fire marshal.

F. When dwelling units or guest rooms are served by only one (1) exit they shall meet the following three (3) requirements:

(1) The exits shall be separated from the other dwelling units by one (1) hour fire resistive construction or lath and plaster in good condition.

(2) Doors leading from dwelling units or guest rooms to exit hall or stairs serving other dwelling units or guest rooms shall be smoke and draft tight and self-closing.

(3) Each dwelling unit shall be provided with a rescue/escape window in every sleeping room in conformance with this code or an exterior door approved for emergency rescue. A fire escape as specified herein may be used as one (1) required exit.

3. Emergency Egress Specifications. All egress or rescue windows and doors from sleeping rooms shall have a minimum net clear opening of five and seven-tenths ($5\frac{7}{10}$) square feet. The minimum net clear opening height dimension shall be twenty-four (24) inches. The minimum net clear opening width dimension shall be twenty (20) inches. Where windows are provided as a means of egress or rescue, they shall have a finished sill height not more than forty-four (44) inches above the floor.

(Ord. 305 (part), 1995)

6-12.0405 STAIRWAYS.

1. General. Every stairway having two (2) or more risers serving any building or portion thereof shall conform to the requirements of this section.

EXCEPTION: Stairs or ladders used only to attend equipment are exempt from the requirements of this section.

2. Width. Stairways serving an occupant load of fifty (50) or more shall be not less than forty-four (44) inches in width. Stairways serving an occupant load of forty-nine (49) or less shall be not less than thirty-six (36) inches in width.

Handrails may project into the required width a distance of three and one-half (3 1/2) inches from each side of a stairway. Stringers and other projections such as trim and similar decorative features may project into the required width one and one-half (1 1/2) inches on each side.

3. Rise and Run. The rise of every step in a stairway shall be not less than four (4) inches nor greater than seven (7) inches. The run shall not be less than eleven (11) inches as measured horizontally between the vertical planes of the furthestmost projection of adjacent treads. The largest tread run within any flight of stairs shall not exceed the smallest by more than three-eighths (3/8) inch. The greatest riser height within any flight of stairs shall not exceed the smallest by more than three-eighths (3/8) inch.

EXCEPTIONS:

A. Private stairways serving an occupant load of less than ten (10) and stairways to unoccupied roofs may be constructed with an eight (8) inch maximum rise and nine (9) inch minimum run.

B. Where the bottom or top riser adjoins a sloping public way, walk or driveway having an established grade and serving as a landing, the bottom or top riser may be reduced along the slope to less than four (4) inches in height with the variation in height of the bottom or top riser not to exceed three (3) inches in every three (3) feet of stairway width.

4. Landings. Every landing shall have a dimension measured in the direction of travel not less than the width of the stairway. Such dimension need not exceed forty-four (44) inches when the stair has a straight run.

EXCEPTION: Stairs serving an unoccupied roof are exempt from these provisions.

5. Distance Between Landings. There shall be not more than twelve (12) feet vertically between landings.

6. Handrails. Stairways shall have handrails on each side, and every stairway required to be more than eighty-eight (88) inches in width shall be provided with not less than one (1) intermediate handrail for each eighty-eight (88) inches of required width. Intermediate handrails shall be spaced approximately equally across with the entire width of the stairway. Substantial handrail reconstruction shall adhere to current Uniform Building Code requirements.

EXCEPTIONS:

A. Stairways less than forty-four (44) inches in width or stairways serving one (1) individual dwelling unit in Group R, Division 1 or 3 Occupancies may have one (1) handrail.

B. Private stairways thirty (30) inches or less in height may have handrails on one (1) side only.

C. Stairways having less than four (4) risers and serving one (1) individual dwelling unit in Group R, Division 1 or 3, or serving Group M Occupancies need not have handrails.

The top of handrails shall be placed not less than thirty-four (34) inches nor more than thirty-eight (38) inches above the nosing of treads. They shall be continuous the full length of the stairs and except for private stairways at least one (1) handrail shall extend not less than six (6) inches beyond the top and bottom risers. Ends shall be returned or shall terminate in newel posts or safety terminals.

The handgrip portion of handrails shall be not less than one and one-half ($1\frac{1}{2}$) inches nor more than two (2) inches in cross-sectional dimension or the shape shall provide an equivalent gripping surface. The handgrip por-

tion of handrails shall have a smooth surface with no sharp corners.

Handrails projecting from a wall shall have a space of not less than one and one-half ($1\frac{1}{2}$) inches between the wall and the handrail.

7. Guardrails. Stairways open on one (1) or both sides shall have guardrails as required by the Uniform Building Code. Existing buildings shall have guardrails as required by the Uniform Building Code except that the openings between guardrails may be up to nine (9) inches in width on existing installations. Substantial guardrail reconstruction shall adhere to current Uniform Building Code requirements.

8. Headroom. Every stairway shall have a headroom clearance of not less than six (6) feet eight (8) inches. Such clearances shall be measured vertically from a plane parallel and tangent to the stairway tread nosings to the soffit above at all points.

9. Interior Stairways. Every interior stairway shall be enclosed with walls of not less than one (1) hour fire resistive construction, except stairways within individual dwelling units. Where existing partitions form part of a stairwell enclosure, wood, lath and plaster in good condition will be acceptable in lieu of one (1) hour fire resistive construction. Door(s) to such enclosure(s) shall be protected by a self closing door equivalent to a solid wood door not less than one and three-fourths ($1\frac{3}{4}$) inches thick. Enclosures shall include landings between flights and any corridors, passageways or public rooms necessary for continuous exit to the exterior of the building.

The stairway need not be enclosed in a continuous shaft if cut off at each story by the fire resistive construction required by this subsection for stairwell enclosures. Enclosures shall not be required if an automatic sprinkler is provided for all portions of the building except bedrooms, apartments and room accessory thereto.

10. Exterior Stairways. Exterior stairs shall be noncombustible or of wood of not less than two (2) inch

nominal thickness or shall be designed to sustain a forty (40) pound uniform live load and a three hundred (300) pound concentrated load applied to the stair tread. Solid treads and risers shall be maintained in a safe condition as determined by the housing official and fire marshal.

11. Stair Construction. New stair construction shall conform with Uniform Building Code requirements. Stairways not addressed in this section shall be required to adhere to current Uniform Building Code requirements.

(Ord. 305 (part), 1995)

6-12.0406 DOORS AND OPENINGS.

1. General. Exit doors shall meet the requirements of the Uniform Building Code. Doors shall not reduce the required width of a stairway more than six (6) inches when open. Transoms and openings other than doors from corridors to rooms shall be fixed closed and shall be covered with a minimum of three-quarter ($3/4$) inch plywood or one-half ($1/2$) inch gypsum wallboard or an equivalent material. Regardless of the occupant load, there shall be a floor or landing on each side of a door.

EXCEPTIONS:

A. Existing solid bonded wood core doors one and three-eighths ($1\frac{3}{8}$) inches thick or their equivalent may be continued in use.

B. Where the existing form will not accommodate a door complying with Uniform Building Code requirements, a one and three-eighths ($1\frac{3}{8}$) inches thick solid bonded wood core door may be used.

C. Existing wood panel doors separating individual dwelling units or guest rooms from exit corridors may be continued in use but shall be draft and smoke tight.

D. Doors serving building equipment rooms which are not normally occupied.

(Ord. 305 (part), 1995)

6-12.0407 FIRE PROTECTION.

1. General. Construction, occupancy load, and fire protection requirements of all buildings containing dwelling units or designed to contain dwelling units shall be provided with the degree of fire resistive construction as required by the Uniform Building Code, the Uniform Fire Code, the Code of Iowa, and the Iowa Administrative Code.

2. Separation of Occupancies. Occupancy separations shall be provided as specified in the Uniform Building Code. Dwelling units and guest rooms shall be separated from each other and from corridors by construction having as fire resistance ratings of not less than one (1) hour of wood lath and plaster in good condition. Every room containing a boiler or central heating plant shall be separated from the rest of the building by not less than one (1) hour fire resistive occupancy separation. An approved sprinkler system directly over the boiler or central heating plant may be substituted for one (1) hour separation.

EXCEPTION: A separation or sprinkler protection shall not be required for such rooms with equipment serving only one (1) dwelling unit, or for equipment with less than a four hundred thousand (400,000) BTU input.

3. Fire Extinguishers.

A. Required. All multi-family dwellings (three (3) units or more) shall be provided with approved Type 2A serviceable fire extinguishers in the common corridors at each floor level and the basement. The maximum distance between fire extinguishers on any floor level and the basement shall be seventy-five (75) feet.

The property owner shall have the option to install approved Type 1A serviceable fire extinguishers in each dwelling unit or sleeping room in lieu of Type 2A extinguishers in the common corridors.

B. Maintenance. All fire extinguishers shall be inspected once a year by an approved service company and serviced as necessary. All fire extinguishers shall be

tagged by the approved service company showing the date of service and expiration.

4. Mixed Occupancy Fire Alarms. All buildings containing drinking and/or dining establishments and dwelling units, shall provide a fire alarm installed in each dwelling unit or sleeping room hard-wired to a heat detector located in the commercial portions of the building.

5. Smoke Detectors.

A. Required. Every dwelling unit, mobile home, guest room, and residential building shall include the installation of at least one (1) smoke detector approved by the fire marshal and located in the following areas:

(1) In all efficiency dwelling units and guest rooms in an area centrally located on the ceiling of the main room of the efficiency dwelling unit and guest room;

(2) In each area or corridor of a dwelling unit giving access to the immediate vicinity of a room used for sleeping purposes;

(3) In all common areas or corridors of every story and basement of residential buildings;

(4) In other areas as provided for by law.

B. Location and Installation. All smoke detectors shall be located and mounted on a ceiling or on a wall not more than twelve (12) inches from the ceiling at a point centrally located in the required area. Smoke detectors shall be installed and located in accordance with the manufacturer's recommendation and fire marshal's approval.

C. Power Source and Maintenance.

(1) Buildings required by state and local law to install smoke detectors receiving their primary source from the building's wiring shall comply with all applicable laws concerning installation, inspection, and maintenance.

(2) All dwelling units, mobile homes, guest rooms or residential buildings, except those with smoke detectors receiving their primary source from the building's wiring, shall have battery operated smoke detectors.

D. Owner and Occupant Responsibilities.

(1) The owner shall be responsible for the installation and testing of all battery operated smoke detectors. The owner shall be responsible for the replacement of batteries of smoke detectors located in common areas, corridors, basements and stories not used for dwelling purposes.

(2) The occupant shall be responsible for the replacement of batteries of smoke detectors located in the occupant's dwelling unit or guest room, unless the lease or rental agreement provides that this shall be the owner's responsibility, except that the owner shall be responsible for determining that such battery is in operating condition at the time the occupant takes possession of the dwelling unit or guest room.

(3) The regular testing of the smoke detector to determine any deficiencies shall be the responsibility of the owner or occupant responsible for battery maintenance. The occupant shall notify the owner or authorized agent in writing of any deficiencies. The owner or authorized agent shall correct any reported deficiencies in the smoke detector. The owner shall not be in violation of this section for a deficient smoke detector in a dwelling unit if the owner or authorized agent was not notified by the occupant.

E. Alternates. No alternate method of obtaining the fire protection required by this section may be used unless the housing code board of appeals finds that such alternate method provides protection equivalent to that required herein.

(Ord. 305 (part), 1995)

6-12.0408 SUBSTANDARD BUILDINGS.

1. General. Any building or portion thereof which is determined to be substandard as defined in this code is

hereby declared to be a public nuisance and shall be abated by repair, rehabilitation, demolition or removal in accordance with the procedure specified in this code.

Any building or portion thereof, including any dwelling unit, guest room or suite of rooms, or the premises on which the same is located, in which there exists any of the following listed conditions to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby is declared to be a substandard building.

2. Inadequate Sanitation and Maintenance. Inadequate sanitation and maintenance shall include but not be limited to the following:

A. Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling unit or lodging house;

B. Lack of, or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel;

C. Lack of, or improper kitchen sink in a dwelling unit;

D. Lack of hot and cold running water to plumbing fixtures in a hotel;

E. Lack of hot and cold running water to plumbing fixtures in a dwelling unit or lodging house;

F. Lack of adequate heating facilities;

G. Lack of, or improper operation of required ventilating equipment;

H. Lack of minimum amounts of natural light and ventilation required by this code;

I. Room and space dimensions less than required by this code;

J. Lack of required electrical lighting;

- K. Dampness of habitable rooms;
 - L. Infestation of insects, vermin or rodents as determined by the health officer or housing official;
 - M. General dilapidation or improper maintenance;
 - N. Lack of connection to required sewage disposal system;
 - O. Lack of adequate garbage and rubbish storage and removal facilities as determined by the housing official;
 - P. Deteriorated, crumbling or loose plaster.
3. Structural Hazards. Structural hazards shall include but not be limited to the following:
- A. Deteriorated or inadequate foundations;
 - B. Defective or deteriorated flooring or floor supports;
 - C. Flooring or floor supports of insufficient size to carry imposed loads with safety;
 - D. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration;
 - E. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety;
 - F. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
 - G. Members of ceilings, roofs, ceiling and roof supports, or other horizontal members that are of insufficient size to carry imposed loads with safety;
 - H. Fireplaces or chimneys which list, bulge or settle, due to defective material or deterioration;

I. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety;

4. Nuisance. Any nuisance as defined in this code.

5. Substandard Electrical Wiring. Electrical wiring which was installed in violation of code requirements in effect at the time of installation or electrical wiring not installed in accordance with generally accepted construction practices in areas where no codes were in effect or which has not been maintained in good condition or which is not being used in a safe manner shall be considered substandard.

6. Substandard Plumbing. Plumbing which was installed in violation of code requirements in effect at the time of installation or plumbing not installed in accordance with generally accepted construction practices in areas where no codes were in effect or which has not been maintained in good condition or which is not free of cross-connections or siphonage between fixtures shall be considered substandard.

7. Substandard Mechanical Equipment. Mechanical equipment which was installed in violation of code requirements in effect at the time of installation or mechanical equipment not installed in accordance with generally accepted construction practices in areas where no codes are in effect or which has not been maintained in good and safe condition shall be considered substandard.

8. Faulty weather protection which shall include but not be limited to the following:

A. Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors;

B. Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering;

C. Broken, rotted, split or buckled exterior wall coverings or roof coverings.

9. Fire Hazard. Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the fire marshal or his designee, or the housing official, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.

10. Faulty Materials of Construction. All materials of construction except those which are specifically allowed or approved by this code and the building code, and which have been adequately maintained in good and safe condition.

11. Hazardous or Unsanitary Premises. Those premises on which are accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials or conditions which constitute fire, health or safety hazards.

12. Inadequate Exits. Except for those buildings or portions thereof which have been provided with adequate exit facilities conforming to the provisions of this code, buildings or portions thereof whose exit facilities were installed in violation of code requirements in effect at the time of their construction or whose exit facilities have not been increased in number or width in relation to any increase in occupant load due to alterations, additions or change in use or occupancy subsequent to the time of construction shall be considered substandard.

Notwithstanding compliance with code requirements in effect at the time of their construction, buildings or portions thereof shall be considered substandard when the building official finds that an unsafe condition exists through an improper location of exits, a lack of an adequate number or width of exits, or where other conditions exist which are dangerous to human life.

13. Improper Occupancy. All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies.

14. Gutter and Downspout. Where the control and drainage of surface water is not being maintained, gutters and downspouts shall be installed to maintain such control and drainage. Gutters and downspouts shall be properly maintained in a good and safe condition.

15. Screening. Every openable window, door or similar device used or intended to be used for ventilation shall be supplied with properly fitted screens of not less than sixteen (16) meshes to the inch. Such screening shall be maintained in good repair.

16. Inadequate Maintenance. Any building or portion thereof which is determined to be an unsafe building in accordance with this code of the city code of Buffalo, Iowa.

17. Building Security. Locking devices are required on all dwelling openings accessible from the ground.

18. Off-Street Parking. All off-street parking shall comply with the requirements of the city code of Buffalo, Iowa.

(Ord. 305 (part), 1995)

ARTICLE 5
NOTICES AND ORDERS OF HOUSING OFFICIAL

6-12.0501 NOTICES AND ORDERS.

1. Commencement of Proceedings. Whenever the housing official has inspected or caused to be inspected any building and has found and determined that such building is a substandard building, he shall commence proceedings to cause the repair, rehabilitation, vacation or demolition of the building.

2. Notice and Order. The housing official shall issue a notice and order directed to the record owner of the building. The notice and order shall contain:

A. The street address and a legal description sufficient for identification of the premises upon which the building is located;

B. A statement that the housing official has found the building to be substandard with a brief and concise description of the conditions found to render the building dangerous under the provisions of this code;

C. A statement of the action required to be taken as determined by the housing official;

(1) If the housing official has determined that the building or structure must be repaired, the order shall require that all required permits be secured therefor and the work physically commenced within such time (not to exceed sixty (60) days from the date of the order) and completed within such time as the building official shall determine is reasonable under all of the circumstances.

(2) If the housing official has determined that the building or structure must be vacated, the order shall require that the building or structure shall be vacated within a certain time from the date of the order as determined by the housing official to be reasonable.

(3) If the housing official has determined that the building or structure must be demolished, the order shall require that the building be vacated within such time as the housing official shall determine reasonable (not to exceed sixty (60) days from the date of the order); that all required permits be secured therefor within thirty (30) days from the date of the order, and that the demolition be completed within such time as the housing official shall determine is reasonable (not to exceed ninety (90) days from the date of the order);

D. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the housing

official (i) will order the building vacated and posted to prevent further occupancy until the work is completed, and (ii) may proceed to cause the work to be done and charge the costs thereof against the property or its owner;

E. Statements advising (i) that any person having any record title or legal interest in the building may appeal from the notice and order or any action of the housing official to the housing code board of appeals, provided the appeal is made in writing as provided in this code, and filed with the housing official within thirty (30) days from the date of service of such notice and order; and (ii) that failure to appeal will constitute a waiver of all right to an administrative hearing and determination of the matter.

3. Service of Notice and Order. The notice and order, and any amended or supplemental notice and order, shall be served upon the record owner/agent. The failure of the housing official to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him by the provisions of this section.

4. Method of Service. Service of the notice and order shall be made upon all persons entitled thereto either by personal service or by mailing a copy by certified mail or by regular mail with affidavit of mailing attesting thereto. If no such interested persons can be located regarding the property, then, in lieu of the above stated methods of service, the property shall be physically posted with the notice and order.

5. Proof of Service. Proof of service may be by written affidavit or by receipt card returned in acknowledgement of receipt by certified mail and shall be affixed to the copy of the notice and order retained by the housing official.

6. Recordation of Notice and Order. If compliance is not had with the order within the time specified therein, and no appeal has been properly and timely filed, the housing official shall file in the office of the

county recorder a certificate describing the property and certifying (i) that the building is a substandard building, and (ii) that the owner has been so notified. If a certificate of substandard condition has been filed and whenever the corrections ordered shall thereafter have been completed or the building demolished so that it no longer exists as a substandard building on the property described in the certificate, the housing official shall file a new certificate with the county recorder certifying that the building has been demolished or all required corrections have been made so that the building is no longer substandard, whichever is appropriate.

7. Repair, Vacation and Demolition. The following standards shall be followed by the housing official (and by the housing code board of appeals if an appeal is taken) in ordering the repair, vacation or demolition of any substandard building or structure:

A. Any building declared a sub-standard building under this code shall be made to comply with one (1) of the following:

(1) The building shall be repaired in accordance with the current housing code or other current code applicable to the type of substandard conditions requiring repair; or

(2) The building shall be demolished at the option of the building owner; or

(3) If the building does not constitute an immediate danger to the life, limb, property or safety of the public or of the occupants, it shall be ordered to be vacated and to be secured in accordance with the city code of Buffalo, Iowa.

B. If the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or of the occupants, it shall be ordered to be vacated and/or demolished.

8. Notice to Vacate.

A. Posting. Every notice to vacate shall, in addition to being served, be posted at or upon each exit of the building.

B. Compliance. Whenever such notice is posted, the housing official shall include a notification thereof in the notice and order issued by him reciting the emergency and specifying the conditions which necessitate the posting. No person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed and a certificate of occupancy issued pursuant to the provisions of this code.

(Ord. 305 (part), 1995)

6-12.0502 APPEAL

1. Form of Appeal. Any person entitled to service of notice under this code may appeal from any notice and order or any action of the housing official under this code by filing at the office of the housing official a written appeal containing:

A. The names of all appellants participating in the appeal;

B. A brief statement setting forth the legal interest of each of the appellants in the building or the land involved in the notice and order;

C. A brief statement in ordinary and concise language of that specific order or action protested, together with any material facts claimed to support the contentions of the appellant;

D. A brief statement in ordinary and concise language of the relief sought and the reasons why it is claimed the protested order or action reversed, modified or otherwise set aside;

E. The signatures of all parties named as appellants and their official mailing addresses;

F. The verification (by declaration under penalty of perjury) of at least one (1) appellant as to the truth of the matters stated in the appeal.

The appeal shall be filed within thirty (30) days from the date of the service of such order or action of the housing official, provided, however that if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or adjacent property and is ordered vacated and is posted in accordance with this code such appeal shall be filed within ten (10) days from the date of the service of the notice and order of the housing official.

2. Scheduling and Noticing Appeal for Hearing. As soon as practicable after receiving the written appeal, the housing official acting as secretary to the board shall fix a date, time and place for the hearing of the appeal by the board. Such date shall be not less than ten (10) days nor more than sixty (60) days from the date the appeal was filed with the housing official. Written notice of the time and place of the hearing shall be given at least ten (10) days prior to the date of the hearing to each appellant by the secretary of the board either by causing a copy of such notice to be delivered to the appellant personally or by mailing a copy thereof, postage prepaid, addressed to the appellant at his address shown on the appeal.

3. Effect of Failure to Appeal. Failure of any person to file an appeal in accordance with the provisions of this code shall constitute a waiver of his right to an administrative hearing and adjudication of the notice and order or to any portion thereof.

4. Scope of Hearing on Appeal. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal.

5. Staying of Order Under Appeal. Except for vacation orders made pursuant to this code, enforcement of any notice and order of the housing official issued under this

code shall be stayed during the pendency of an appeal therefrom which is properly and timely filed.

6. Procedures for Conduct of Hearing Appeals.

A. 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 board.

B. Continuances. The board may grant continuances for good cause shown.

C. Oaths-Certification. In any proceedings under this chapter, the board, any board member, or the hearing examiner has the power to administer oaths and affirmations and to certify to official acts.

D. Reasonable Dispatch. The board 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.

7. Subpoenas.

A. Filing of Affidavit. The board may authorize the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at a hearing upon the request of a member of the board 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 his possession or under his control. A subpoena need not be issued when the affidavit is defective in any particular. Any party may move to quash a subpoena before the board.

B. Penalties. Any person who refuses without lawful excuse to attend any hearing, or to produce material evidence in his possession or under his control as required by any subpoena served upon such person as provided for herein shall be guilty of a misdemeanor.

8. Conduct of Hearing.

A. Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.

B. Oral Evidence. Oral evidence shall be taken only on oath or affirmation.

C. 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.

D. Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely 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 jurisdictions in this state.

E. Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.

F. Rights of Parties. Each party shall have these rights:

(1) To call and examine witnesses on any matter relevant to the issues of the hearing;

(2) To introduce documentary and physical evidence;

(3) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

(4) To impeach any witness regardless of which party first called him to testify;

(5) To rebut the evidence against him;

(6) To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

G. Official Notice.

(1) 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 board or departments and ordinances of the city or rules and regulations of the board.

(2) Parties to be Noticed. 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.

(3) 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 board.

H. Inspection of the Premises. The board may inspect any building or premises involved in the appeal during the course of the hearing, provided that (i) notice of such inspection shall be given to the parties before the inspection is made, (ii) the parties are given an opportunity to be present during the inspection, and (iii) the board 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 board.

9. Method and Form of Decision.

A. Hearing Before the Board Itself. Where a contested case is heard before the board itself, no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.

B. 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 appellant personally or sent to him by certified mail, postage prepaid, return receipt requested.

C. Effective Date of Decision. The effective date of the decision shall be as stated therein.

(Ord. 305 (part), 1995)

6-12.0503 ENFORCEMENT OF THE ORDER OF THE HOUSING
OFFICIAL OR HOUSING CODE BOARD OF APPEALS.

1. Compliance. After any order of the housing official or the housing code board of appeals made pursuant to this code, shall have become final, no person to whom such order is directed shall fail, neglect, or refuse to obey any such order. Any such person who fails to comply with any such order is guilty of a simple misdemeanor.

2. Failure to Commence Work. Whenever the required repair or demolition is not commenced within thirty (30) days or any time period established by the board after any final notice and order issued under this code becomes effective:

A. The housing official shall cause the building described in such notice and order to be vacated by posting a notice at each entrance thereto.

B. No person shall occupy any building which has been posted as specified in this subsection. No person shall remove or deface any such notice so posted until the repairs, demolition or removal ordered by the housing official have been completed and a certificate of compliance issued pursuant to the provisions of this code.

C. The housing official may, in addition to any other remedy herein provided, cause the building to be repaired to the extent necessary to correct the conditions which render the building substandard as set forth in the notice and order; or, if the notice and order required demolition, or to cause the building to be sold and demolished; or, to be demolished, and the materials, rubble and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost

thereof paid and recovered in the manner hereinafter provided in this code. Any surplus realized from the sale of any such building, or from the demolition thereof, over and above the cost of demolition and of cleaning the lot shall be paid over to the person or persons lawfully entitled thereto.

3. Extension of Time to Perform Work. Upon receipt of an application from the person required to conform to the order and an agreement by such person that he will comply with the order if allowed additional time, the housing official may, in his sole discretion, grant an extension of time, not to exceed an additional one hundred twenty (120) days, within which to complete said repair, rehabilitation or demolition, if the building official determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life or property. The housing official's authority to extend time is limited to the physical repair, rehabilitation or demolition of the premises and will not in any way affect or extend the time to appeal his notice and order.

4. Interference with Repair or Demolition Work Prohibited. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this code, or with any person to whom such building has been lawfully sold pursuant to the provisions of this code, whenever such officer, employee, contractor or authorized representative of this jurisdiction, person having an interest or estate in such building or structure, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing any such building pursuant to the provisions of this code, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this code.

5. Violations-Penalties. Any person or entity who violates any of the provisions of this code shall be guilty of a simple misdemeanor and except as otherwise provided in this code shall be fined fifty dollars (\$50.00) for a first offense and one hundred dollars

(\$100.00) for every subsequent offense thereof for the same violation. The housing official is authorized to enforce this chapter pursuant to procedures and remedies set forth in this chapter.

(Ord. 305 (part), 1995)

6-12.0504 PERFORMANCE OF WORK OF REPAIR OR DEMOLITION.

1. Procedure. When any work of repair or demolition is to be done pursuant to this code, the housing official shall cause the work to be accomplished by city personnel or by private contract under the direction of the housing official. Plans and specifications therefor may be prepared by the housing official, or he may employ such architectural and engineering assistance on a contract basis as he may deem reasonably necessary.

2. Costs. The costs of such work shall be made a special assessment against the property involved, or may be made a personal obligation of the property owner, whichever the legislative body of this jurisdiction shall determine is appropriate.

3. Personal Obligation or Special Assessment. The city legal department shall determine whether said charge shall be made a personal obligation of the property owner and/or assess said charge against the property involved.

4. Lien of Assessment. All liens of assessment shall be done according to applicable city and state code.

(Ord. 305 (part), 1995)

6-12.0505 CONFLICTING PROVISIONS.

Whenever conflicting provisions or requirements occur between this code, the technical code or any codes or laws, the most restrictive shall govern.

(Ord. 305 (part), 1995)

CHAPTER 13 - STORMWATER UTILITY

6-13.0101 PURPOSE AND FINDINGS.

1. The purpose of this chapter is to establish a policy and procedure for managing and controlling the

quantity and quality of stormwater runoff, wherever it may be found, within the city limits of Buffalo, Iowa. The management shall include the establishment of a stormwater utility to provide revenues for whatever aspects of this requirement are deemed appropriate by the city council of Buffalo.

2. The stormwater needs in the city of Buffalo include, but are not limited to, protecting the public safety, health and welfare of its citizens. The service and benefit rendered or resulting from provision of stormwater management systems and facilities may differ depending on many factors and considerations, including, but not limited to, location, demands, and impacts imposed on the stormwater systems and programs and risk exposure.

3. The city of Buffalo presently owns and operates numerous stormwater management systems and facilities which have been developed over many years. The future usefulness of the existing stormwater systems owned and operated by the city, and of additions and improvements thereto, rests on the ability of the city to effectively manage, protect, control, regulate, use, and enhance stormwater systems and facilities in Buffalo in concert with the management of other water resources in the city. In order to do so, the city must have adequate and stable funding for its stormwater management program operating and capital investment needs.

4. The city council of Buffalo finds, concludes, and determines that a utility provides the most practical and appropriate means of properly delivering and funding stormwater management services in Buffalo.

5. The city may be required under federal and state mandates to provide increased quantity or quality controls to mitigate the impacts of pollutants that may be discharged from the stormwater collection system. Therefore, it is appropriate to impose a stormwater user charge upon all users of property that may discharge, directly or indirectly, into the storm sewer system, whether private or public in nature.

(Ord. 383 § 1(part), 2003)

6-13.0102 ESTABLISHMENT OF A STORMWATER UTILITY.

1. There is established a stormwater management utility within the city of Buffalo, Iowa which shall be responsible for stormwater management throughout the city's corporate limits, and shall provide for the management, protection, control, regulation, use, and enhancement of stormwater systems and facilities. Such utility shall be under the direction of the public works director. The corporate limits of the city, as increased from time to time, shall constitute the boundaries of the stormwater utility district.

2. The city shall establish a stormwater enterprise fund in the city budget and accounting system, separate and apart from its general fund, for the purpose of dedicating and protecting all funding applicable to the purposes and responsibilities of the utility, including but not limited to, rentals, rates, charges, fees and licenses as may be established by the city council. All revenues and receipts of the stormwater utility shall be deposited promptly upon receipt into the stormwater enterprise fund, to be held and invested in trust for the purposes dedicated and expended exclusively for purposes of the utility, including, but not limited to capital project construction or payment of bonds funding capital projects. No other funds of the city shall be deposited in the stormwater enterprise fund or commingled with dedicated stormwater revenues, except that other revenues, receipts, and resources not accounted for in the stormwater enterprise fund, including grants, loans, and bond proceeds may be combined with and applied to stormwater management capital projects as deemed appropriate by the city council upon recommendation of the public works director.

(Ord. 383 § 1(part), 2003)

6-13.0103 DEFINITIONS.

1. "Customers of the stormwater utility": shall mean and include all persons, properties, and entities serviced by and/or benefiting the utility's acquisition, management, maintenance, extension, and improvement of the public stormwater management systems and facilities and regulation of public and private stormwater systems, facilities, and activities related thereto, and person, properties and entities which will ultimately be served or

benefited as a result of the stormwater management program.

2. "Hydrologic response". The hydrologic response of a property is the manner and means whereby stormwater collects, remains, infiltrates and is conveyed from a property. It is dependent on several factors including, but not limited to, the presence of impervious area, the size, shape, topographic, vegetative, and geologic conditions of a property, antecedent moisture conditions, and groundwater conditions on a property.

3. "Impervious surface": shall mean those areas which prevent or impede the infiltration of stormwater into the soil as it entered natural conditions prior to development. Common impervious areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, compacted gravel and soil surfaces, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of stormwater runoff which existed prior to development.

4. "Stormwater management systems": shall mean and address the issues of drainage management (flooding) and environmental quality (pollution, erosion and sedimentation) of receiving rivers, streams, creeks, lakes, ponds and reservoirs through improvements, maintenance, regulation and funding of plants, works, instrumentalities and properties used or useful in the collection, retention, detention and treatment of stormwater or surface water drainage.

5. "Undeveloped land": shall mean land in its unaltered natural state or which has been modified to such minimal degree as to have a hydrologic response comparable to land in an unaltered natural state shall be deemed undeveloped. Undeveloped land shall have no pavement, asphalt, or compacted gravel surfaces or structures which create an impervious surface that would prevent infiltration of stormwater or cause stormwater to collect, concentrate, or flow in a manner materially different from that which would occur if the land was in an unaltered natural state. For purposes of this chapter, undeveloped land

shall also include property altered from its natural state by the creation or installation of less than two hundred (200) square feet of impervious surface.

6. "Detached dwelling unit": shall mean developed land containing one (1) structure which is not attached to another dwelling and which contains one (1) or more bedrooms, with a bathroom and kitchen facilities, designed for occupancy by one (1) family. Detached dwelling units may include houses, manufactured homes, and mobile homes located on one (1) or more individual lots or parcels of land. Developed land may be classified as a detached dwelling unit despite the presence of incidental structures associated with residential uses such as garages, carports, or small storage buildings, or the presence of a commercial use within the dwelling unit so long as such use does not result in additional impervious areas, such as parking spaces, playgrounds, or structures or additions to the building which are used as offices, storage facilities, meeting rooms, classrooms, houses of worship, or similar non-residential uses. Detached dwelling unit shall not include developed land containing: structures used primarily for non-residential purposes, manufactured homes, and mobile homes located within manufactured home or mobile home parks where the land is owned by other than the owners of the manufactured homes or mobile homes, or multiple dwelling unit residential properties.

7. "Developed land": shall mean property altered from its natural state by construction or installation of more than two hundred (200) square feet of impervious surface as defined in this chapter.

8. "Duplexes and triplexes": shall mean developed land containing two (2) (duplex) or three (3) (triplex) attached residential dwelling units located on one (1) or more parcels of land.

9. "Multiple dwelling unit residential properties": shall mean developed land whereon four (4) or more attached residential dwelling units are located and shall include, but not limited to, apartment houses, condominiums, town homes, attached single-family homes, boarding houses, group homes, hotels and motels, retirement cen-

ters, and other structures in which four (4) or more family groups commonly and normally reside or could reside. In the application of stormwater service charge rates, multiple dwelling unit properties shall be treated as other developed lands.

10. "Other developed land": shall mean, but shall not be limited to, multiple dwelling unit residential properties, manufactured home and mobile home parks, commercial and office buildings, public buildings and structures, industrial and manufacturing buildings, storage buildings and storage areas covered with impervious surfaces, parking lots, parks, recreation properties, public and private schools, research stations, hospitals and convalescent centers and agricultural uses covered by impervious surfaces.

11. "Service charges": shall mean the periodic rate, fee or charge applicable to a parcel of developed land, which charge shall be reflective of the service provided by the city of Buffalo stormwater utility.

12. "Occupant": shall mean the person residing or doing business on the property. In a family or household situation, the person responsible for the obligation imposed shall be the adult head of the household. In a shared dwelling or office situation, the adult legally responsible for the management or condition of the property shall be responsible.

13. "Owner": shall mean the legal owner(s) of record as shown on the tax rolls of Scott County except where there is a recorded land sale contract, the purchaser thereunder shall be deemed the owner.

14. "User": shall mean any person who uses property which maintains connection to, discharges to, or otherwise receives services from the city for stormwater management. The occupant of any habitable property is deemed the user. If the property is not occupied, then the owner shall be deemed the user.

(Ord. 383 § 1(part), 2003)

6-13.0104 SCOPE OF RESPONSIBILITY FOR THE DRAINAGE SYSTEM.

1. The city drainage system consists of all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage ways, channels, ditches, swales, storm sewers, culverts, inlets, catch basins, pipes, head walls and other structures, natural or man-made, within the political boundaries of the city of Buffalo which control and/or convey stormwater through which the city intentionally diverts surface waters from its public streets and properties. The city owns or has legal access for purposes of operation, maintenance and improvements to those segments of this system which (1) are located within public streets, rights-of-way and easements; (2) are subject to easements of rights-of-entry, rights-of-access, rights-of-use, or other permanent provisions for adequate access for operation, maintenance, and/or improvement of systems and facilities; or (3) are located on public lands to which the city has adequate access for operation, maintenance, and/or improvement of systems and facilities. Operation and maintenance of stormwater systems and facilities which are located on private property or public property not owned by the city of Buffalo and for which there has been no public dedication of such systems and facilities for operation, maintenance, and/or improvement of the systems and facilities shall be and remain the legal responsibility of the property owner.

2. It is the intent of this chapter to protect the public health, safety and general welfare of all properties and persons in general, but not to create any special duty or relationship with an individual person or to any specified property within or without the boundaries of the city of Buffalo. The city of Buffalo expressly reserves the right to assert all available immunities and defenses in any action seeking to impose monetary damages upon the city, its officers, employees and agents arising out of any alleged failure or breach of duty or relationship as may now exist or hereafter be created. To the extent any permit plan approval, inspection, or similar act is required by the city as a condition precedent to any activity by or upon property not owned by the city, pursuant to this or any other regulatory ordinance, regulation or rule of the city of under federal or state law, the issuance of

such permit, plan approval, or inspection shall not be deemed to constitute a warranty, express or implied, nor shall afford the basis for any action, including any action based on failure to permit or negligent issuance of a permit, seeking the imposition of money damages against the city, its officers, employees or agents.

(Ord. 383 § 1(part), 2003)

6-13.0105 REQUIREMENTS FOR ON-SITE STORMWATER SYSTEMS, ENFORCEMENT AND INSPECTIONS.

1. All property owners and developers of developed real property within the city of Buffalo shall provide, manage, maintain, and operate on-site stormwater systems sufficient to collect, convey, detain, and discharge stormwater in a safe manner consistent with all city, state, and federal laws and regulations.

2. Pursuant to Section 364.12(3) or successor section of the state code, any failure to meet this obligation may constitute a nuisance and may be subject to an abatement action filed by the city. In the event a nuisance is found to exist, which the owner fails to properly abate within such reasonable time as allowed by the city, the city may enter upon the property and cause such work as is reasonably necessary to be performed, with the actual cost thereof assessed against the owner in the same manner as a tax levied against the property. The city shall have the right, pursuant to the authority of this chapter, for its designated officers and employees to enter upon private and public property owned by entities other than the city, upon reasonable notice to the owner thereof, to inspect the property and conduct surveys and engineering tests thereon in order to assure compliance.

(Ord. 383 § 1(part), 2003)

6-13.0106 DETERMINATION AND MODIFICATION OF STORMWATER SERVICE CHARGES OR FEES.

Stormwater service charges or fees shall be determined and modified from time to time by action of the city council. In setting or modifying such rates it shall be the objective of the council to establish rates, fees and charges that are fair and reasonable, reflect the value of stormwater management services and facilities to those properties who benefit therefrom and, which together with

any other sources of revenue that may be made available to the stormwater utility, will be sufficient to meet the cost of budgeted programs, services and facilities, including, but not limited to, the payment of principal and interest on revenue bond obligations incurred for construction and improvements to the stormwater system, as applicable.

(Ord. 383 § 1(part), 2003)

6-13.0107 STORMWATER SERVICE CHARGE BILLING;
DELINQUENCIES; COLLECTIONS.

1. A stormwater service charge bill will be sent through the United States mail or by alternative means, notifying the customer of the amount of the bill, the date the payment is due, and the date when past due and will be added to the monthly electric bill. Failure to receive a bill is not justification for non-payment. Regardless of the party to whom the bill is initially directed, the owner of each parcel of developed land, as shown from public land records of Scott County, shall be ultimately obligated to pay such fee. If a customer is underbilled or if no bill is sent for developed land, the city may back bill for a period of up to four (4) years, but shall not assess penalties for any delinquency.

2. Suits for collection shall be commenced by the city in the Iowa District Court for Scott County. No lien shall be imposed for delinquent collections unless a judgement is first obtained from a court of competent jurisdiction. The city may employ any lawful means to collect funds owed, and is not restricted to filing a lawsuit.

3. The stormwater utility service charge may be billed on a common statement and collected along with other city utility services, usually on a monthly basis.

(Ord. 383 § 1(part), 2003)

4. Bills not paid when due shall be considered delinquent. If any charge for this service shall not be paid by the day of the month in which it shall be come due and payable, a charge of three percent (3%) of the amount of the bill shall be added thereto and collected therewith.

(Ord. 417, 2007)

6-13.0108 APPEALS.

Any person who believes the provisions of this chapter have been applied to such person in error may appeal in the following manner:

1. An appeal shall be filed in writing with the city of Buffalo public works director.
2. Using the information provided by the appellant, the director shall conduct a technical review of the conditions on the property and respond to the appeal within thirty (30) days.
3. In response to an appeal, the director may adjust the stormwater service charge applicable to a property in conformance with the general purpose and intent of this chapter.
4. A decision of the director which is adverse to an appellant may be further appealed to the city council within thirty (30) days of receipt of notice of the adverse decision. Notice of the appeal shall be served on the city clerk by the appellant, stating the grounds for appeal. The city council shall issue a written decision on the appeal within thirty (30) days. All decisions of the city council shall be mailed to appellant at the address the appellant lists on the notice of appeal.
5. There shall be no further administrative appeal beyond the city council.

(Ord. 383 § 1(part), 2003)

6-13.0109 STORMWATER SERVICE CHARGES-FEES.

Stormwater service charges shall accrue beginning January 1, 2004 and shall be billed periodically thereafter to customers, except as specific exemptions and credits may apply.

(Ord. 383 § 1(part), 2003)

6-13.0110 ILLICIT DISCHARGE AND STORMWATER CONNECTIONS.

1. PURPOSE/INTENT.

The purpose of this ordinance is to provide for the health, safety, and general welfare of the citizens of Buffalo, Iowa through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (1) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
- (2) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
- (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance

2. DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

Authorized Enforcement Agency: employees or designees of the City of Buffalo Public Works Department.

Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.

Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

Illegal Discharge. Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 7 of this ordinance.

Illicit Connections. An illicit connection is defined as either of the following:

Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or,

Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

Industrial Activity. Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).

National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit. means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-Storm Water Discharge. Any discharge to the storm drain system that is not composed entirely of storm water.

Person : means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

Pollutant. Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

Premises. Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

Storm Drainage System. Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

Storm Water. Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

Stormwater Pollution Prevention Plan: A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.

Wastewater means any water or other liquid, other than un-contaminated storm water, discharged from a facility.

3. APPLICABILITY.

This ordinance shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

4. RESPONSIBILITY FOR ADMINISTRATION.

The Buffalo Public Works Department, or its designated agent, shall administer, implement, and enforce the provisions of this ordinance. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the City of Buffalo Director of Public Works to persons or entities acting in the beneficial interest of or in the employ of the agency.

5. SEVERABILITY.

The provisions of this ordinance are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Ordinance or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Ordinance.

6. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this ordinance are minimum standards; therefore this ordinance does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

7. DISCHARGE PROHIBITIONS.

Prohibition of Illegal Discharges.

No person shall discharge or cause to be discharged into the municipal storm drain watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (a) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehi-

cles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated - typically less than one PPM chlorine), fire fighting activities, and any other water source not containing Pollutants.

- (b) Discharges specified in writing by the authorized enforcement agency as being necessary to protect public health and safety.
- (c) Dye testing is an allowable discharge, but requires a verbal notification to the authorized enforcement agency prior to the time of the test.
- (d) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system. Prohibition of Illicit Connections.
- (e) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (f) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (g) A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

8. SUSPENSION OF MS4 ACCESS.

Suspension due to Illicit Discharges in Emergency Situations

The Buffalo Public Works Department, or its designated agent may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or

to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

Suspension due to the Detection of Illicit Discharge

Any person discharging to the MS4 in violation of this ordinance may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the Buffalo City Council for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the authorized enforcement agency.

9. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Buffalo Public Works Department or its designated agent prior to the allowing of discharges to the MS4.

10. MONITORING OF DISCHARGES

A. Applicability.

This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

B. Access to Facilities.

- (a) The Buffalo Public Works Department, or its designated agent shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary

arrangements to allow access to representatives of the authorized enforcement agency.

- (b) Facility operators shall allow the Buffalo Public Works Department, or its designated agent, ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- (c) The Buffalo Public Works Department, or its designated agent, shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's storm water discharge.
- (d) The Buffalo Public Works Department, or its designated agent, has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (e) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Buffalo Public Works Department, or its designated agent, and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (f) Unreasonable delays in allowing the Buffalo Public Works Department, or its designated agent, access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the authorized enforcement agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.

(g)

If the Buffalo Public Works Department, or its designated agent, has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this ordinance or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction

11. REQUIREMENT TO PREVENT, CONTROL, AND REDUCE
STORM WATER POLLUTANTS BY THE USE OF BEST
MANAGEMENT PRACTICES.

The Buffalo Public Works Department will adopt requirements identifying Best Management Practices (BMP's) for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or water-courses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

12. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

13. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the authorized enforcement agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Buffalo Public Works Department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

14. ENFORCEMENT.

A. Notice of Violation.

Whenever the Buffalo Public Works Department finds that a person has violated a prohibition or failed to meet a requirement of this Ordinance, the authorized enforcement agency may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of storm water pollution or contamination hazards
and the restoration of any affected property; and
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

15. APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the authorized enforcement agency. The notice of appeal must be received within 5 days from the date of the Notice of Violation. Hearing on the appeal before the Buffalo City Council shall take place within 15 days from the date of receipt of the notice of appeal. The decision of the City Council shall be final.

16. ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in

the event of an appeal, within 10 days of the decision of the City Council upholding the decision of the authorized enforcement agency, then representatives of the Buffalo Public Works Department may enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

17. COST OF ABATEMENT OF THE VIOLATION.

Within 10 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written protest objecting to the amount of the assessment within 10 days. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this article shall become liable to the city by reason of such violation. The liability shall be paid in not more than 12 equal payments.

18. VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

19. REMEDIES NOT EXCLUSIVE

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal,

state of local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.(Ord.408 (part), 2006)

CHAPTER 14 - HISTORIC PRESERVATION COMMISSION

6-14.01 PURPOSE AND INTENT.

The purpose of this chapter is to:

1. Promote the educational, cultural, economic and general welfare of the public through the recognition, enhancement, and perpetuation of sites and districts of historical and cultural significance;

2. Safeguard the city's historic, aesthetic, and cultural heritage by preserving sites and districts of historic and cultural significance;

3. Stabilize and improve property values;

4. Foster pride in the legacy of beauty and achievements of the past;

5. Protect and enhance the city's attractions to tourists and visitors and the support and stimulus to business thereby provided;

6. Strengthen the economy of the city;

7. Promote the use of sites and districts of historic and cultural significance as places for the education, pleasure, and welfare of the people of the city.

(Ord. 395 (part), 2004)

6-14.02 DEFINITIONS.

1. Commission. The Buffalo historic preservation commission, as established by this chapter.

2. Historic District. An area which contains a significant portion of sites including archaeological sites, buildings, structures, objects and/or other improvements which, considered as a whole, possesses integrity of loca-

tion, design, setting, materials, workmanship, feeling, and association:

A. Embodies the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction;

B. Is associated with events that have made significant contributions to the broad patterns of our local, state or national history;

C. Possesses a coherent and distinctive visual character or integrity based upon similarity of scale, design, color, setting, workmanship, materials, or combinations thereof, which is deemed to add significantly to the value and attractiveness of properties within such area;

D. Is associated with the lives of persons significant in our past; or

E. Has yielded, or may be likely to yield, information important in prehistory or history.

3. Historic Landmark. A site including archaeological sites, object, structure or building which:

A. Is associated with events that have made a significant contribution to the broad patterns of our history;

B. Is associated with the lives of persons significant in our past;

C. Embodies the distinctive characteristics of a type, period, or method of construction, or that represents a work of a master, or that possesses high artistic values, or that represents a significant and distinguishable entity whose components may lack individual distinction; or

D. Has yielded, or may be likely to yield, information important in prehistory or history.

(Ord. 395 (part), 2004)

6-14.03 BUFFALO HISTORIC PRESERVATION COMMISSION.

1. The commission shall initially consist of five (5) members who shall be residents of the city.

2. Members of the commission shall be appointed by the mayor with the advice and consent of the city council. Members shall demonstrate a positive interest in historic preservation, possessing interest or expertise in architecture, architectural history, historic preservation, city planning, building rehabilitation, conservation in general or real estate.

3. The original appointment of the members of the commission shall be, three (3) for two (2) year, and two (2) for three (3) years, from January 1 following the year of such appointment or until their successor is appointed to serve for the term of three (3) year.

4. Vacancies occurring in the commission, other than expiration of term of office, shall be only for the unexpired portion of the term of the member replaced.

5. Members may serve for more than one (1) term and each member shall serve until the appointment of a successor.

6. Vacancies shall be filled by the city according to the original selection as aforesaid.

7. Members shall serve without compensation.

8. A simple majority of the commission shall constitute a quorum for the transaction of business.

9. The commission shall elect a chairman who shall preside over all commission meetings and elect a secretary who shall be responsible for maintaining written records of the commission's proceedings.

10. The commission shall meet at least three (3) times a year.

(Ord. 395 (part), 2004)

6-14.04 POWERS OF THE COMMISSION.

1. The commission may conduct studies for the identification and designation of historic districts and landmarks meeting the definitions established by this chapter. The commission may proceed at its own initiative or upon petition from any person, group, or association. The commission shall maintain records of all studies and inventories for public use.

2. The commission may make a recommendation to the State Historic Preservation Office for the listing of a historic district or landmark in the National Register of Historic Places and may conduct a public hearing thereon.

3. The commission may investigate and recommend to the city council the adoption of ordinances designating historic landmarks and historic districts if they qualify as defined herein.

4. Provide information for the purpose of historic preservation to the governing body.

5. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.

6. Other Powers. In addition to those duties and powers specified above, the commission may, with city council approval:

A. Accept unconditional gifts and donations of real and personal property, including money, for the purpose of historic preservation;

B. Acquire by purchase, bequest, or donation, fee and lesser interests in historic properties, including properties adjacent to or associated with historic properties;

C. Preserve, restore, maintain and operate historic properties, under the ownership or control of the commission;

D. Lease, sell and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property;

E. Contract, with the approval of the governing body, with the state or the federal government or other organizations;

F. Cooperate with the federal, state and local governments in the pursuance of the objectives of historic preservation.

(Ord. 395 (part), 2004)

6-14.05 SEVERABILITY.

The provisions of this section are declared to be severable and if any provision of this chapter is declared unconstitutional or held invalid by a court of competent jurisdiction, this determination shall not affect, impair, or invalidate the remainder of this chapter, but shall be confined to its operation to the section, paragraph, subparagraph, clause or phrase of this chapter in which such a determination has been made.

(Ord. 395 (part), 2004)

6-14.06 AMENDATORY PROVISIONS.

The city may amend this chapter to meet any unforeseen circumstances which may affect the duties and responsibilities of the commission.

(Ord. 395 (part), 2004)

CHAPTER 15 - CONSTRUCTION SITE EROSION AND SEDIMENT CONTROL

6-15.101 PURPOSE AND INTENT.

1. The National Pollutant Discharge Elimination System (NPDES) permit program administered by the Iowa Department of Natural Resources (IDNR) requires that agencies meeting certain demographic and environmental crite-

ria obtain from the IDNR a NPDES permit for the discharge of stormwater from a separate storm sewer system. The city of Buffalo has been issued such a permit.

2. The NPDES program requires individuals who desire to conduct earth disturbing activities related to construction on one (1) acre of land or more, to submit an application to the IDNR for a NPDES General Permit #2 for stormwater discharge associated with industrial activity for construction activities.

3. As a condition of the city's permit, the city is obligated to undertake primary responsibility for administration and enforcement of the NPDES program by adopting a procedure to be followed by all General Permit #2 applicants.

A. Any person, firm, sole proprietorship, partnership, corporation, agency, or political entity required by law or administrative rule to apply to the IDNR for a NPDES General Permit #2 shall also be required to obtain from the city a Construction Site Erosion and Sediment Control (COSESCO) permit in addition to the NPDES General Permit #2.

B. The city shall have the primary responsibility for inspection, monitoring, and enforcement of both the NPDES General Permit #2 and the COSESCO permit.

4. No state or federal government funds have been made available to defray the costs of the city's administration and enforcement of the NPDES permit program. Pursuant these governmental mandates, the city must fund the permit program.

5. The purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in the city of Buffalo. This chapter will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in city of Buffalo.

(Ord. 403 (part), 2006)

6-15.102 DEFINITIONS.

As used in this chapter:

"Certified contractor" means a person who has received training and is licensed to inspect and maintain erosion and sediment control practices.

"Clearing" means any activity that removes the vegetative surface cover.

"Construction Site Erosion and Sediment Control (CO-SESCO) permit" means a permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

"Drainage way" means any channel that conveys surface runoff throughout the site.

"Erosion control" means a measure that prevents erosion.

"Grading" means excavation or fill of material, including the resulting conditions thereof.

"Perimeter control" means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

"Phasing" means clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

"Sediment control" means measures that prevent eroded sediment from leaving the site.

"Site" means a parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

"Site-Specific Stormwater Pollution Prevention Plan (SWPPP)" means a set of plans prepared by or under the direction of a licensed professional engineer indicating the

specific measures and sequencing to be used to control sediment and erosion on a development site during and after construction.

"Stabilization" means the use of practices that prevent exposed soil from eroding.

"Start of construction" means the first land-disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

"Watercourse" means any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water delineated by the city of Buffalo.

"Waterway" means a channel that directs surface runoff to a watercourse or to the public storm drain.

(Ord. 403 (part), 2006)

6-15.103 PERMITS AND SUPPORTING DOCUMENTATION.

1. No person shall be granted a (COSESCO) permit for land-disturbing activity that would require the uncovering of one (1) acre or more without the approval of a SWPPP by the Buffalo Public Works Department, or its designated agent.

2. No (COSESCO) permit is required for the following activities:

A. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

B. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

3. Applications for COSESCO permits shall be made on forms approved by the city and available at City Hall and the public works department.

4. Applicants will be charged a fee of fifty dollars (\$50.00) for processing.

5. An applicant who has applied for a NPDES Permit #2 through submittal of a Notice of Intent (NOI) to the IDNR, shall subsequently submit to the city copies of the following materials as a basis for the city to issue a COSESCO permit.

A. Applicant's NPDES General Permit #2 NOI.

B. The site-specific stormwater pollution prevention plan (SWPPP).

C. Applicant's plans, specifications, and supporting data, if not already part of the NOI submittal, to include any information regarding concentrations of stormwater pollutants if known, and not already required to be submitted.

6. Every SWPPP submitted to the city in support of an application for COSESCO permit shall have the following:

A. A statement that the plan meets all current minimum mandatory requirements of the IDNR for SWPPPs in connection with the issuance of a NPDES General Permit #2, as stated in the summary guidance for the permit.

B. A statement that the plan complies with the minimum mandatory requirements of the Joint Application Form, "Protecting Iowa Waters," Iowa Department of Natural Resources, and the US Army Corps of Engineers.

C. A certification by the person preparing the SWPPP, that the plan complies with all other applicable state or federal permit requirements in existence at the time of application and all requirements of this chapter.

7. Issuance of a COSESCO permit shall be a condition precedent for the issuance of a building permit for that site or development.

8. For the duration of the time that the construction site is subject to the NPDES General Permit #2 and the COSESCO permit, the applicant shall provide to the city, and keep current, the following:

A. The name, address, and telephone number of the person designated by the applicant to oversee compliance with the NPDES General Permit #2 and the COSESCO permit.

B. The name, address, and telephone number of the individual or firm responsible for the installation and maintenance of each erosion and sediment control measure delineated in the SWPPP.

9. If the applicant for the NPDES General Permit #2 and the COSESCO permit is not the same individual as the owner/builder on the site, then the applicant has the option to include the owner/builder as a co-permittee. Co-permittees have the same obligations and responsibilities as the original applicant. Absent written confirmation of transfer of responsibility signed by both the parties and provided to the city at the office of the enforcement official, the original applicant remains obligated and responsible for permit compliance on any parcel of the site, whether the parcel has been sold or not.

(Ord. 403 (part), 2006)

6-15.104 REVIEW AND APPROVAL.

1. Buffalo Public Works Department, or its designated agent will review each application for a site development permit to determine its conformance with the provisions of this regulation. Within thirty (30) days after receiving an application, Buffalo Public Works Department, or its designated agent shall, in writing:

A. Approve the permit application;

B. Approve the permit application subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or

C. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission.

2. Failure of the Buffalo Public Works Department, or its designated agent to act on an original or revised application within thirty (30) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by agreement between the applicant and Buffalo Public Works Department, or its designated agent. Pending preparation and approval of a revised plan, development activities shall be allowed to proceed in accordance with conditions established by the Buffalo Public Works Department, or its designated agent.

(Ord. 403 (part), 2006)

6-15.105 SITE-SPECIFIC STORMWATER POLLUTION PREVENTION PLAN.

1. The Site-Specific Stormwater Pollution Prevention Plan (SWPPP) shall include the following:

A. A natural resources map identifying soils, forest cover, and resources protected under other chapters of this code. This map should be at a scale no smaller than one (1) inch is equal to one hundred (100) feet.

B. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.

C. All erosion and sediment control measures necessary to meet the objectives of this local regulation throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.

D. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.

E. Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.

2. Modifications to the plan shall be processed and approved or disapproved in the same manner as Section 6.15.104 of this regulation, may be authorized by the Buffalo Public Works Department, or its designated agent by written authorization to the permittee, and shall include:

A. Major amendments of the erosion and sediment control plan submitted to Buffalo Public Works Department, or its designated agent;

B. Field modifications of a minor nature.

(Ord. 403 (part), 2006)

6-15.106 DESIGN REQUIREMENTS.

1. Grading, erosion control practices, sediment control practices, and waterway crossings shall be adequate to prevent transportation of sediment from the site to the satisfaction of Buffalo Public Works Department, or its designated agent. Cut and fill slopes shall be no greater than two is to one (2:1), except as approved by the Buffalo Public Works Department, or its designated agent to meet other community or environmental objectives.

2. Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this code. Clearing techniques that retain natural vegetation and drainage patterns shall be used to the satisfaction of the Buffalo Public Works Department, or its designated agent.

3. Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.

4. Phasing shall be required on all sites disturbing greater than thirty (30) acres, with the size of each phase to be established at plan review and as approved by the Buffalo Public Works Department, or its designated agent.

5. Erosion control requirements shall include the following:

A. Soil stabilization shall be completed within five (5) days of clearing or inactivity in construction;

B. If seeding or another vegetative erosion control method is used, it shall become established within two (2) weeks or the Buffalo Public Works Department, or its designated agent may require the site to be reseeded or a non-vegetative option employed;

C. Soil stockpiles must be stabilized or covered at the end of each workday;

D. The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season;

E. Techniques shall be employed to prevent the blowing of dust or sediment from the site;

F. Techniques that divert upland runoff past disturbed slopes shall be employed.

6. Sediment controls requirements shall include:

A. Settling basins, sediment traps, or tanks and perimeter controls;

B. Settling basins that are designed in a manner that allows adaptation to provide long term stormwater management, if required by the Buffalo Public Works Department, or its designated agent;

C. Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.

7. Waterway and watercourse protection requirements shall include:

A. A temporary stream crossing installed and approved if a wet watercourse will be crossed regularly during construction;

B. Stabilization of the watercourse channel before, during, and after any in-channel work;

C. All on-site stormwater conveyance channels;

D. Stabilization adequate to prevent erosion located at the outlets of all pipes and paved channels.

8. Construction site access requirements shall include:

A. A temporary access road provided at all sites;

B. Other measures required by the Buffalo Public Works Department, or its designated agent in order to ensure that sediment is not tracked onto public streets by construction vehicles or washed into storm drains.

(Ord. 403 (part), 2006)

6-15.107 INSPECTION.

1. The Buffalo Public Works Department or designated agent shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the SWPPP as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Buffalo Public Works Department, or its designated agent shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the Buffalo Public Works Department, or its designated agent at least two (2) working days before the following:

- A. Start of construction;
- B. Installation of sediment and erosion measures;
- C. Completion of site clearing;
- D. Completion of rough grading;
- E. Completion of final grading;
- F. Close of the construction season;
- G. Completion of final landscaping.

2. The permittee or his/her agent shall make regular inspections of all control measures in accordance with the inspection schedule outlined on the approved SWPPP(s). The purpose of such inspections will be to determine the overall effectiveness of the control plan and the need for additional control measures. All inspections shall be documented in written form and submitted to the Buffalo Public Works Department, or its designated agent at the time interval specified in the approved permit.

3. The Buffalo Public Works Department, or its designated agent shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed under subsection 2 of this section.

4. The applicant will notify the enforcement official in writing when all measures required by the applicant's SWPPP have been accomplished, whereupon, the enforcement official shall provide the applicant with a written response indicating compliance with the SWPPP or a list of conditions of non-compliance. This response shall be provided within one (1) work week of receipt of the applicant's notification to the city. Upon receipt of the conditions of non-compliance, the applicant will take immediate action to correct items of concern and shall complete actions within forty-eight (48) hours.

5. Construction shall not occur on the site at any time when the city has identified conditions of non-compliance.

6. The city shall not be responsible for the direct or indirect consequences to the applicant, or any third parties, for any non-compliant conditions undetected by the inspection process, nor shall the inspection be deemed any guarantee by the city that the work performed is in conformance with the requirements of city, state or federal law.

(Ord. 403 (part), 2006)

6-15.108 TERMINATION OF A COSESCO PERMIT.

1. Within thirty (30) days after final stabilization at the construction site, as defined by the IDNR in its General Permit #2, the owner (permittee) shall submit a notice of termination to the Buffalo Public Works Department, or its designated agent. The notice shall contain the following information:

A. The name and address of the owner (permittee) to whom the permit was issued;

B. The permit authorization number;

C. The date the construction site reached final stabilization.

D. A certification that the disturbed soils have been finally stabilized and temporary sediment control devices will be removed at an appropriate time. The permittee will acknowledge that he/she is no longer authorized to discharge stormwater associated with construction at this site.

(Ord. 403 (part), 2006)

6-15.109 ENFORCEMENT.

1. Violation of any provision of this chapter may be enforced by civil action including an action for injunctive relief. In any civil enforcement action, administrative or judicial, the city shall be entitled to recover its legal fees and costs from a person who is determined

by a court of competent jurisdiction to have violated this chapter.

2. Violation of any provision of this chapter may also be enforced as a municipal infraction within the meaning of Iowa Code 364.22. The schedule of fines are as follows:

A. Schedule of violations.

Type I:	First offense	\$100
	Second offense	250
	Third and subsequent offense	500
Type II:	First offense	\$250
	Second and subsequent offense	500

B. Definition of offenses.

Type I

- (1) Failure to control off-site tracking of soils.
- (2) Failure to implement stormwater pollution prevention controls as designated in SWPPP.
- (3) Failure to maintain stormwater pollution prevention controls.

Type II

- (1) Operating without a COSESCO permit.
- (2) Discharging excessive amounts of sediment.
- (3) Failure to comply with a written directive issued by the city engineer, director of public works, or the enforcement official designated by the city.

3. Enforcement pursuant to this section shall be undertaken by the enforcement official upon the advice and consent of the city attorney.

(Ord. 403 (part), 2006)

6-15.110 SEVERABILITY.

The provisions and sections of this chapter shall be deemed to be separable, and the invalidity of any portion of this chapter shall not affect the validity of the remainder.

(Ord. 403 (part), 2006)

6-15.111 ADOPTION OF ORDINANCE.

The ordinance codified in this chapter shall be in full force and effect the date of passage and adoption. All prior ordinances and parts of ordinances in conflict with this chapter are hereby repealed.

(Ord. 403 (part), 2006)

CHAPTER 16 - BUFFALO COMMERCIAL AND INDUSTRIAL URBAN RENEWAL AREA

6-16.01 Purpose. The purpose of this ordinance is to provide for the division of taxes levied on the taxable property in the Buffalo Commercial and Industrial 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 Buffalo to finance projects in such area.

6-16.02 Definitions. For use within this ordinance the following terms shall have the following meanings:

"City" shall mean the City of Buffalo, Iowa.

"County" shall mean Scott County, Iowa.

"Urban Renewal Area" shall mean the Buffalo Commercial and Industrial Urban Renewal Area, the boundaries of which are set out below, such area having been identified in the Urban Renewal Plan approved by the City Council by resolution adopted on January 8, 2007:

Certain real property situated in the City of Buffalo, County of Scott, State of Iowa, more particularly described as follows:

Parcel 1

Part of Government Lot 1, Section 19, and part of Government Lots 3&4, Section 20, Township 77 North, Range 2 East of the 5th P.M., more particularly described as follows: Commencing at the Northwest corner of Government Lot 4; Section 20; thence continuing South 00°52' West 631.05 feet along the West line of said Government Lot 4 to a point on the south line of the Chicago, Rock Island and Pacific Railway Co., right of way, said point being the point of beginning of the following described tract of real estate; thence South 83°54' East 1421.24 feet along the South line of said Chicago, Rock Island and Pacific Railway Co., right of way to a point on the West line of property of Elmer Porstmann; thence South 00°53' West 1087.37 feet along the West property line of Porstmann's tract to the Northeast corner of Tract No. F1a-53; thence North 72°37' West 953.7 feet (954.6 feet, according to Survey of May 10, 1937 by US Corps of Engineers) along the North line of said Tract No. F1a- 53; thence South 86°36' West 501.8 feet along the North line of said Tract No. F1a - 53 to a point on the West line of Government Lot 4, Section 20; thence continuing South 86°36' West 1338.0 feet along the North line of said Tract No. F1a - 53 to a point on the East line of Tract No. F1a-52; thence North 00°43' East 1204.95 feet along the East line of said Tract No. F1a-52 to a point on the South line of the Chicago, Rock Island and Pacific Railway Co. right of way; thence South 83°54' East 1342.7 feet along the South line of said Chicago, Rock Island and Pacific Railway Co. right of way to the point of beginning.

Except that part described as follows:

A portion of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of fractional Section 19, Township 77 North, Range 2 East of the 5th P.M. being also a portion of Government Lot 1 of said fractional Section 19 more particularly described and bounded as follows: Begin-

ning at a point 517 feet South of a stone at the N.W. Corner of the N.E. $\frac{1}{4}$ of the S.E. $\frac{1}{4}$ of said Section 19 which point is on the southerly right of way line of the Chicago, Rock Island and Pacific Railway Company; thence South along grantor's West property line a distance of 1433 feet to an iron stake near the bank of the Mississippi River; thence East at right angles to said West property line 100 feet; thence North at right angles to the last preceding course 100 feet to an iron stake; thence West at right angles to the last preceding course 90 feet to an iron stake; thence North parallel to said West property line a distance of 1333 feet to a Southerly right of way line of the Chicago, Rock Island and Pacific Railway Company; thence West-erly 10 feet to place of beginning, together with all the right, title and interest of first parties and all their riparian rights in and to tract of real estate 100 feet wide East and West and lying Southerly of the Southerly line of the tract hereinbefore bounded to low water mark of the Mississippi River, subject to the rights of the United States Government in the real estate so lying Southerly of said Southerly line and further together with all the right, title and interest of first parties in and to the real estate lying Northerly of the boundary line of the above bounded tract which boundary line is also the Southerly boundary line of Chicago, Rock Island and Pacific Railway Company right of way for a distance of 10 feet in width East and West across said right of way to the Northerly boundary line of said right of way, subject to right of way of said Railway company.

Parcel 2:

Part of the South $\frac{1}{2}$ of the frac. Section 19, Township 77 North, Range 2 East of the 5th P.M., being more particularly described as follows:

Commencing at the N.E. corner of the N.W. $\frac{1}{4}$ of the said frac. Section 19; thence W. 20.5 chains

along the N. line of said frac. Section 19; thence South 2933.11 feet to a point where the W. line of gov't Lot 3 of said frac. Section 19 intersects the Southerly right of way line of the C.R.I.&P. Ry. Co's land and which point is also the place of beginning of the tract of land herein described; thence N. 85°12'W. 1274.92 feet along said right of way line; thence South 01°31' E. 516.70 feet; thence South 73°41' East 977.90 feet; thence S. 62°10' E. 653.70 feet; thence South 89° 06' East 1898.30 feet; thence South 52°47' E. 678.70 feet to the East line of gov't Lot 2 of said frac. Section 19; thence N. 00° 41' 56" West, 1204.85 feet along the East line of said gov't Lot 2 to its intersection with the Southerly right of way line of said C.R.I. & P. Ry. Co's land; thence N. 85° 12' W. 115.00 feet along said right of way line; thence south 04° 48' W 25.00 feet along said right of way line thence N. 85° 12' W 500.00 feet along said right of way line; thence N. 04° 48' East 25.00 feet along said right of way line; thence N. 85° 12' W. 2078.12 feet along said right of way line to the place of beginning.

Except therefrom that portion heretofore conveyed to Cargill, Inc. by deed dated August 21, 1967 and recorded in Book 309 Deeds 270, Records of the Scott county, Iowa, Recorder's Office.

Subject also to the easements, restrictions and covenants of record.

6-16.03 Provisions for Division of Taxes Levied on Taxable Property in the Urban Renewal Area. After the effective date of this ordinance, the taxes levied on the taxable property in the Urban Renewal Area each year by and for the benefit of the State of Iowa, the City, the County and any school district or other taxing district in which the Urban Renewal Area is located, shall be divided as follows:

(a) that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of

the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City certifies to the County Auditor the amount of loans, advances, indebtedness, or bonds payable from the special fund referred to in paragraph (b) below, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. For the purpose of allocating taxes levied by or for any taxing district which did not include the territory in the Urban Renewal Area on the effective date of this ordinance, but to which the territory has been annexed or otherwise included after the effective date, the assessment roll applicable to property in the annexed territory as of January 1 of the calendar year preceding the effective date of the ordinance which amends the plan for the Urban Renewal Area to include the annexed area, shall be used in determining the assessed valuation of the taxable property in the annexed area.

(b) that portion of the taxes each year in excess of such amounts shall be allocated to and when collected be paid into

a special fund of the City to pay the principal of and interest on loans, moneys advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under the authority of Section 403.9(1), of the Code of Iowa, incurred by the City to finance or refinance, in whole or in part, projects in the Urban Renewal Area, 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 Urban Renewal Area exceeds the total assessed value of the taxable property in such area as shown by the assessment roll referred to in subsection (a) of this section, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for said taxing districts in the same manner as all other property taxes. When such loans, ad-

vances, indebtedness, and bonds, if any, and interest thereon, have been paid, all money thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(c) the portion of taxes mentioned in subsection (b) of this section and the special fund into which that portion shall be paid may be irrevocably pledged by the City for the payment of the principal and interest on loans, advances, bonds issued under the authority of Section 403.9(1) of the Code of Iowa, or indebtedness incurred by the City to finance or re-finance in whole or in part projects in the Urban Renewal Area.

(d) as used in this section, the word "taxes" includes, but is not limited to, all levies on an ad valorem basis upon land or real property.

(Ord. 415, 2007)

TITLE VII - SOCIAL AND ECONOMIC WELL BEING
CHAPTER 1 - REGULATION OF BUSINESS AND VOCATION

ARTICLE I
PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

7-1.0101 PURPOSE.

The purpose of this chapter is to protect residents of the city against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

(Easterly v. Incorporated Town of Irwin, 99 Iowa 694, 68 N.W. 919 [1896])

7-1.0102 DEFINITIONS.

For use in this chapter the following terms are defined:

(Town of Scranton v. Henson, 151 Iowa 221, 130 N.W. 1079 [1911]; Davenport v. Rice, 75 Iowa 74, 39 N.W. 191 [1888]; 68 Iowa 678 [1886])

1. "Peddler" shall mean any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.

2. "Solicitor" shall mean any person who solicits or attempts to solicit from house-to-house or upon the public street an order for goods, subscriptions or merchandise to be delivered at a future date.

3. "Transient merchant" shall mean any person, firm or corporation who engages in a temporary or itinerant merchandising business and in the course of such business hires, leases or occupies any building or structure whatsoever. Temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader or auctioneer shall not exempt any person, firm or corporation from being considered a transient merchant.

7-1.0103 LICENSE REQUIRED.

Any person engaging in peddling, soliciting or in the business of a transient merchant in this city without first obtaining a license as herein provided shall be in violation of this ordinance.

(Easterly v. Incorporated Town of Irwin, 99 Iowa 694, 68 N.W. 919 [1896])

7-1.0104 LICENSE EXEMPTIONS.

The following are excluded from the application of this chapter:

(State of Iowa v. Garbroski, 111 Iowa 496, 82 N.W. 959 [1900])

1. News boys.
2. Members of local Boy Scout, Girl Scout, Campfire Girls, 4-H Clubs, Future Farmers of America and similar organizations.
3. Farmers who offer for sale products of their own raising.
4. Students representing the Davenport Community School District conducting projects sponsored by organizations recognized by the school.
5. Milk delivery men who only incidentally solicit additional business or make special sales.
6. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

7-1.0105 RELIGIOUS AND CHARITABLE ORGANIZATIONS.

Authorized representatives of religious and charitable organizations desiring to solicit money or to distribute literature shall be exempt from the operation of Section 6 through Section 14 of this chapter. All such organizations shall be required to submit in writing to the clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any com-

missions, fees or wages are to be charged by the solicitor for his efforts and the amount thereof. If the clerk shall find that the organization is a bona fide charity or religious organization he shall issue, free of charge, a license containing the above information to the applicant.

7-1.0106 APPLICATION FOR LICENSE.

An application in writing shall be filed with the clerk for a license under this ordinance. Such application shall set forth the applicant's name, permanent and local address, business address if any, physical description, recent photograph, right thumb print and if a peddler a certificate signed by the health officer or other local physician that the applicant is in good health and free from any contagious diseases. The application shall also set forth the applicant's employer if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of two dollars (\$2.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

7-1.0107 BOND REQUIRED.

Before a license under this chapter shall be issued, each principal shall post a bond, by a surety company authorized to engage in the business of insuring the fidelity of others in Iowa, in the amount of one thousand dollars (\$1,000.00) with the clerk to the effect that the registrant and the surety shall consent to the forfeiture of the principal sum of the bond or such part thereof as may be necessary: (1) to indemnify the town for any penalties or costs occasioned by the enforcement of this ordinance 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 such registrant's peddling or solicitation. Said bond shall not be retired until after a lapse of one (1) year from the expiration of the license which it covers.

7-1.0108 AGENT FOR SERVICE OF PROCESS.

Before the license is issued the applicant shall first sign an appointment naming the clerk as agent of the licensee for service of process in the event of claim or

litigation against such registrant arising out of or in connection with any peddling or solicitation.

7-1.0109 LICENSE FEES.

The following license fees shall be paid to the clerk prior to the issuance of any license.

(Memphis Steam Laundry Cleaner v. Stone, 342 U.S. 389 [1952])

1. "Solicitors." In addition to the application fee for each person actually soliciting, principal or agent, a fee of ten dollars (\$10.00) per day or fifty dollars (\$50.00) per week.

2. "Peddlers or transient merchants." The fee shall be ten dollars (\$10.00) per day or fifty dollars (\$50.00) per week.

(Ord. 387, 2004)

7-1.0110 LICENSED ISSUED.

If the clerk finds the application is completed in conformance with Section 6 of this chapter and the facts stated therein are found to be correct, the required bond is posted and the license fee paid, a license shall be issued immediately.

7-1.0111 DISPLAY OF LICENSE.

Each solicitor or peddler shall at all times while doing business in this city keep in his possession the license provided for in Section 10 of this chapter, and shall, upon the request of prospective customers, exhibit the license as evidence that he has complied with all requirements of this chapter. Each transient merchant shall display publicly his license in his place of business.

7-1.0112 LICENSE NOT TRANSFERABLE.

Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

7-1.0113 TIME RESTRICTION.

All peddler's and solicitor's licenses shall provide that said licenses shall be in force and effect only between the hours of 8:00 o'clock A.M. and 6:00 o'clock P.M.

(City of Buffalo v. Tinsman, 98 N.Y. Supp. 737 [1906])

7-1.0114 REVOCATION OF LICENSE.

After notice and hearing, the clerk may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in his application for the license or in the conduct of his business.

2. Violation of Law. The licensee has violated this chapter or has otherwise conducted his business in an unlawful manner.

3. Endangered Public Welfare, Health or Safety. The licensee has conducted his business in such manner as to endanger the public welfare, safety, order or morals.

7-1.0115 NOTICE.

The license holder, and the surety on his bond shall be served with written notice containing particulars of the complaints against him, the ordinance provisions or state statutes allegedly violated, and the date, time and place for hearing on the matter.

7-1.0116 HEARING.

The clerk shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or his authorized representative, fail to appear without good cause the clerk may proceed to a determination of the complaint.

7-1.0117 RECORD AND DETERMINATION.

The clerk shall make and record findings of fact and conclusion of law, and shall revoke a license only when upon review of the entire record he finds clear and convincing evidence of substantial violation of this chapter or state law.

7-1.0118 APPEAL.

If the clerk revokes, or refuses to issue, a license he shall make a part of the record his reasons therefor.

The licensee, or the applicant, shall have a right to a hearing before the council at its next regular meeting. The council may reverse, modify or affirm the decision of the clerk by a majority vote of the council members present and the clerk shall carry out the decision of the council.

(Constitution of Iowa, Article I, Sec. 9)

7-1.0119 EFFECT OF REVOCATION.

Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

ARTICLE 2
POOL HALLS AND BILLIARD TABLES

7-1.0201 PURPOSE.

The purpose of this article is to provide for the licensing and regulation of pool halls and billiard parlors.

7-1.0202 LICENSE REQUIRED.

No person shall conduct or operate a billiard or pool table or other table kept for hire, without first procuring a license therefor, which license shall be fifteen dollars (\$ 15.00) per year for the first table and ten dollars (\$10.00) per year for each additional table under the control of the same person.

7-1.0203 HOURS OF OPERATION.

All billiard or pool rooms shall be closed at two o'clock A.M. and shall not open before six o'clock A.M. on any week day and between the hours of two A.M. and noon on Sunday and ten P.M. and six A.M. on the following Monday.

7-1.0204 OBSTRUCTION OF WINDOWS.

The windows of all billiard or pool rooms shall be free from curtains or other obstructions so as to give a free view of the same from the street at all times.

7-1.0205 MINORS.

No person who keeps a billiard or pool hall, nor the agent of any such person, shall permit any minor to participate in any game if such person become boisterous,

rowdy, committed vandalism or the parents of such person has clearly stated that such person may not participate.

7-1.0206 APPLICATION.

This chapter shall to all places of business where the tables are kept for a major source of income.

7-1.0207 RESPONSIBILITIES.

The operator of any establishment, or his agent shall be held responsible for the conduct of patrons inside of and immediately adjacent to such establishment. Failure to maintain proper order shall result in revocation or suspension of said license at the discretion of the mayor or majority vote of the council.

ARTICLE 3
CARNIVALS AND CIRCUSES

7-1.0301 PURPOSE.

The purpose of this article is to provide for the licensing and regulation of carnivals and circuses.

7-1.0302 LICENSE REQUIRED.

It shall be unlawful for any person to operate a carnival or circus within the city unless a valid license therefore has been issued by the city. Only the owner, manager or agent need possess a license.

7-1.0303 APPLICATION FOR LICENSE.

Application shall be made to the administrator in writing and include:

1. Name and Location. The applicants' full name and address and the address of the location in which the carnival or circus will be operated.

2. Property Owner. If the applicant is not the owner of the property on which the carnival or circus will be operated, the name and address of the owner of such property together with the written authorization of the owner for the use of his property.

3. Sponsor. The name and written official statement of endowment of any sponsoring organization.

7-1.0304 BOND REQUIRED.

The applicant or sponsoring organization shall post a surety bond in the amount of one hundred dollars (\$100.00) conditioned upon compliance with all local laws and such bond may be forfeited at the sole discretion of the city for violation of any ordinances or failure to satisfactorily remove litter, debris or other waste materials from the area deposited or accumulating as a result of the operation of the carnival or circus.

7-1.0305 LICENSE FEE.

The fee for any such license shall be five dollars (\$5.00) per day or part thereof to include all days such carnival or circus shall occupy the premises for which the license is issued.

7-1.0306 LICENSE ISSUED.

The council, upon filing of the required bond and payment of all fees, may issue to the applicant the requested license.

ARTICLE 4
HOUSE MOVERS

7-1.0401 PURPOSE.

The purpose of this chapter is to protect and preserve the public safety and wellbeing by licensing and regulating house and building movers.

7-1.0402 HOUSE MOVER DEFINED.

A "house mover" shall mean any person who undertakes to move a building or similar structure upon, over or across the public streets, alleys, walks or property using skids, jacks, dollies or any method other than upon a properly licensed motor vehicle.

7-1.0403 LICENSE REQUIRED.

It shall be unlawful for any person to engage in the activity of house mover as herein defined without a valid

license from the city for each house, building or similar structure to be moved.

7-1.0404 APPLICATION.

Application for a house mover's license shall be made in writing to the clerk on forms furnished by him. The application shall include:

1. Name and Address. The applicant's full name and address and if a corporation the names and addresses of its principal officers.

2. Building Location. An accurate description of the present location and future site of the building or similar structure to be moved.

3. Routing Plan. A routing plan approved by the chief of police, street superintendent, and public utility officials. The route approved shall be the shortest route compatible with the greatest public convenience and safety.

7-1.0405 BOND REQUIRED.

The applicant shall post with the clerk a penal bond in the sum of \$1,000.00 issued by a surety company authorized to issue such bonds in the state of Iowa. The bond shall guarantee the licensee's payment for any damage done to the city or to public property, and payment of all costs incurred by the city in the course of moving the building or structure.

7-1.0406 INSURANCE REQUIRED.

Each applicant shall also have filed a certificate of insurance indicating that he is carrying public liability insurance in effect for the duration of the license covering himself and his agents and employees for the following amounts.

	Per Person	Per Accident
Bodily Injury	\$50,000	\$100,000
Property Damage		\$50,000

7-1.0407 LICENSE FEE.

A license fee of ten dollars (\$10.00) shall be payable at the time of filing the application with the clerk, A separate license shall be required for each house, building or similar structure to be moved.

7-1.0408 LICENSE ISSUED.

Upon completion of the application, filing of bond and insurance certificate, and payment of the required fee the clerk shall issue a license.

7-1.0409 PUBLIC SAFETY.

At all times when a building or similar structure is in motion upon any street, alley, sidewalk or public property, the licensee shall maintain flagmen at the closest intersections or other possible channels of traffic to the sides, behind and ahead of the building or structure. At all times when the building or structure is at rest upon any street, alley, sidewalk or public property the licensee shall maintain adequate warning signs or flares at the intersections or channels of traffic to the sides, behind and ahead of the building or structure.

7-1.0410 TIME LIMIT.

No house mover shall permit or allow a building or similar structure to remain upon any street or other public way for a period of more than twelve (12) hours without having first secured the written approval of the city.

7-1.0411 REMOVAL BY CITY.

In the event any building or similar structure is found to be in violation of Section 10 of this chapter the city is authorized to remove such building or structure and assess the costs thereof against the license holder and the surety on his bond.

CHAPTER 2 - CIGARETTE PERMITS

7-2.01 DEFINITIONS.

For use in this chapter the following terms are defined.

1. "Cigarette" shall mean any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and irrespective of being flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made of paper or any other material. It also shall mean cigarette papers, wrappers and tubes. It shall further include cigarillos provided their weight does not exceed three (3) pounds per thousand. However, this definition shall not be construed to include cigars.

(Code of Iowa, 1975, Sec. 98.1 [1])

2. "Retailer" shall mean every individual, firm, or corporation or other association that sells, distributes or offers items for sale for consumption, or for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amounts or the number of sales.

(Code of Iowa, 1975, Sec. 98.1 [14]; O.A.G., 1944, P. 142)

3. "Place of Business" shall mean any building or structure in which cigarettes are sold, or are kept for the purpose of sale, by a retailer.

(O.A.G., 1932, P. 112; 1928, P. 162; and 1927, P. 142)

7-2.02 PERMIT REQUIRED.

No retailer shall distribute, sell or solicit the sale of any cigarettes within the city without a valid permit for each place of business. The permit shall be displayed publicly in the place of business so that it can be seen easily by the public. No permit shall be issued to a minor.

7-2.03 APPLICATION.

A completed application on forms provided by the State Department of Revenue and accompanied by the fee provided in Section 7-2.04 shall be filed with the clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the council in June. If a renewal application is not timely filed, and a special council meeting is called to act on the application the costs of such special meeting shall be paid by the applicant.

(O.A.G., 1922, P. 460; Code of Iowa, 1975, Sec. 98.13 [5 and 9])

7-2.04 FEES.

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

(Code of Iowa, 1975, Sec. 98.13 [3])

FOR PERMITS ISSUED OR RENEWED DURING:	FEE:
July, August, or September	\$75.00
October, November, or December	\$56.25
January, February, or March	\$37.50
April, May, or June	\$18.75

7-2.05 ISSUANCE.

The council shall issue or renew a permit upon a determination that such issuance or renewal will not be detrimental to the public health, safety or morals, and shall certify its action in issuing a permit to the State Department of Revenue.

7-2.06 PERMITS NOT TRANSFERABLE.

A permit shall not be transferable to another place of business or retailer. However, if a retailer who holds a valid permit changes his place of business, the council, if it decides to issue a new permit to him, 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.

7-2.07 EXPIRATION.

Permits expire on June 30 of each year.

7-2.08 REFUNDS.

A retailer may surrender an unrevoked permit and receive a refund from the city, except during April, May, or June, as follows:

(Code of Iowa, 1975, Sec. 98.13 [4])

PERMITS SURRENDERED DURING:	AMOUNT OF REFUND:
July, August, or September	\$56.25
October, November, or December	\$37.50
January, February, or March	\$18.75

7-2.09 REVOCATION.

The council, after notice and hearing, shall revoke a permit if it finds the retailer has substantially violated

the provisions of this chapter or Chapter 98, Code of Iowa, 1975, or if grounds exist that would be sufficient for refusal to issue such a permit. The clerk shall give five (5) days' written notice to the retailer by mailing a copy of the notice by certified mail to the place of business as it appears on his application for a permit. The notice shall state the reason for the contemplated revocation and the time and place at which he may appear and be heard. The hearing shall be held at the regular meeting place of the council.

(Code of Iowa, 1975, Sec. 98.22; O.A.G., 1932, P. 164)

7-2.10 RENEWAL AFTER REVOCATION.

Upon revocation, no new permit shall be issued to the retailer or for the place of business for one year from the date of revocation unless good cause to the contrary is shown the council.

7-2.11 COMPLIANCE WITH STATE LAW.

All cigarette retailers shall abide by state law regarding the sale of cigarettes to no one under the legal age of eighteen (18).

(Ord. 339, 1996)

CHAPTER 3 - FRANCHISES

ARTICLE 1
GAS FRANCHISE

7-3.0101 FRANCHISE GRANTED.

There is hereby granted to Iowa-Illinois Gas and Electric Company, an Illinois corporation authorized to do business in the state of Iowa, hereinafter called the "Company," and to its successors and assigns for a period of twenty-five (25) years from and after the effective date of this franchise the right and franchise to acquire, erect, maintain and operate in the city of Buffalo, Iowa a gas plant or plants for the production, storage, transmission, distribution, sale, delivery or furnishing of gas, either natural or manufactured or mixed natural and manufactured, for public and private use in the city of Buffalo and elsewhere and to use the streets, avenues, alleys and public grounds and bridges in the city of Buffalo for

the purpose of laying, constructing, maintaining, replacing and substituting mains, pipes, conduits and other facilities for the transmission, distribution, sale, delivery or furnishing of gas for public and private use in the city of Buffalo and elsewhere.

(Ord. 222 § 1, 1984)

7-3.0102 RIGHTS AND PRIVILEGES.

The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the Code of Iowa, 1983, and this franchise shall not be exclusive.

(Ord. 222 § 2, 1984)

7-3.0103 RIGHT TO EXCAVATE.

The 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 located and maintained as to make no unnecessary obstruction of any drains or sewers or the flow of water therefrom, which have been or may hereafter be located by authority of said city. Said gas pipes, mains, conduits and other facilities shall be so located and maintained in the streets, avenues, alleys and public places of said city as to make no unnecessary obstruction therein to the use thereof by the public.

(Ord. 222 § 3, 1984)

7-3.0104 EXCAVATION REQUIREMENTS.

In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits, or apparatus, the company shall not unnecessarily obstruct the use of the streets, and shall replace the surface, restoring the original condition as nearly as practicable and in laying, repairing and replacing mains and pipes, the company shall conform to all reasonable regulations prescribed by the city to prevent injury to the pavement, streets, alleys, and public places, and the company shall not unnecessarily interfere with, injure or change any pavement, water pipes, drains or sewers of said city, either public or private.

(Ord. 222 § 4, 1984)

7-3.0105 CITY HELD HARMLESS.

The company, its successors and assigns, shall hold said city free and harmless from all damages arising on account of any negligence of the company, its successors and assigns, in the construction, operation and maintenance of said system.

(Ord. 222 § 5, 1984)

7-3.0106 EXTENSION OF SERVICE.

The company, its successors and assigns, shall extend its mains and pipes in accordance with rules and regulations approved by the Iowa State Commerce Commission.

(Ord. 222 § 6, 1984)

7-3.0107 REQUIREMENT TO FURNISH GAS SERVICE.

The company and its successors and assigns as long as they shall operate under the terms of this franchise shall furnish such quantities of gas of good quality as the city and the inhabitants thereof may reasonably demand; provided, however, that such undertaking and agreement shall be subject to such limitations on the use of gas for large-volume commercial or industrial applications, or for space heating as may be provided by reasonable rules and regulations placed into effect by the company during any temporary shortage in or permanent diminution of the supply of natural gas with which the company serves the city of Buffalo and the inhabitants thereof.

(Ord. 222 § 7, 1984)

7-3.0108 DEPOSITS.

The company is authorized to impose reasonable terms and conditions upon the furnishing of gas service and reasonable rules and regulations in the operation and conduct of its business, including, but not limited to, the requiring of a reasonable deposit of any consumer as a condition of furnishing gas to such consumer.

(Ord. 222 § 8, 1984)

7-3.0109 PROTECTION OF COMPANY PROPERTY.

All proper and necessary police regulations shall be adopted and enforced by the city of Buffalo, Iowa for the protection of the pipes, mains, conduits, meters and other apparatus of the company, its successors and assigns.

(Ord. 222 § 9, 1984)

7-3.0110 ELECTION REQUIREMENT.

This franchise and the rights and privileges herein granted shall not become effective or binding until this franchise shall have been submitted to and approved by a majority of the electors of said city of Buffalo, Iowa, voting at the next general or municipal election or at a special election called for that purpose. The cost and expense of the election relating to the franchise provided for herein shall be paid by the company.

(Ord. 222 § 10, 1984)

7-3.0111 ACCEPTANCE BY COMPANY.

The company, its successors and assigns, within thirty (30) days after the approval of this franchise by a vote of the people at the next general or municipal election or at a special election called for that purpose, shall file in the office of the clerk of the city of Buffalo, Iowa its acceptance in writing of all the terms and provisions of this franchise.

(Ord. 222 § 11, 1984)

7-3.0112 REPEAL OF ORDINANCE 116.

Upon the effective date of this franchise, the gas franchise Ordinance No. 116, passed and approved by the city council of the city of Buffalo, Iowa, on April 6, 1959 granting a franchise to the company to furnish gas service to the city of Buffalo, Iowa, and its inhabitants, is hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

(Ord. 222 § 12, 1984)

7-3.0113 EFFECTIVE DATE.

This franchise shall become effective upon passage by the city council, the approval of the voters as provided in Section 7-3.0110 hereof, and the acceptance by the company as provided in Section 7-3.0111 hereof.

(Ord. 222 § 13, 1984)

PASSED AND APPROVED this 6 day of February 1984.

ARTICLE 2
TELEPHONE FRANCHISE

7-3.0201 FRANCHISE GRANTED.

US West, a corporation, its successors and assigns, are hereby granted the right to use and occupy the streets, alleys, and other public places in the city for a term of twenty-five (25) years from the effective date hereof, for the purpose of constructing, maintaining, and operating a general telephone system within the city.

(Ord. 340 (part), 1996; Ord. 209, Sec. 1, 1982)

7-3.0202 EXERCISE OF POLICE POWER.

The rights herein granted are subject to the exercise of the police power as the same now is or may hereafter be conferred upon the city.

(Ord. 340 (part), 1996; Ord. 209, Sec. 2, 1982)

7-3.0203 PAYMENT OF COSTS.

US West shall, upon demand, pay the cost of publishing this ordinance and of holding the election hereinafter referred to.

(Ord. 340 (part), 1996; Ord. 209, Sec. 3, 1982)

7-3.0204 EFFECTIVE DATE.

This ordinance shall be in full force and effect and shall constitute a binding contract between the city of Buffalo, and US West when the same shall have been approved by a majority of the electors of said city voting thereon, and when the provisions hereof shall have been accepted in writing by US West and such acceptance filed with the city clerk.

(Ord. 340 (part), 1996; Ord. 209, Sec. 4, 1982)

Ordinance 40 granting franchise to the Northwestern Bell Telephone Company was passed and approved by the council on August 4, 1947.

Voters approved Ordinance 40 on _____. Northwestern Bell Telephone Company filed letter of acceptance on _____19_____.

ARTICLE 3
CABLE TELECOMMUNICATIONS FRANCHISE

7-3.0301 SHORT TITLE.

This chapter shall be known and may be cited as the "cable telecommunications franchise ordinance" granting a non-exclusive franchise to Eastern Iowa Cablevision and setting forth terms and conditions pertaining thereto.

(Ord. 206, Sec. 1, 1982)

7-3.0302 DEFINITIONS.

The following words and phrases, when used in this chapter, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. "Additional service" shall mean a subscriber service provided by the Grantee for which a special charge is made based on program or service content, time or spectrum usage and which provides services beyond "basic service" as set forth herein.

2. "Basic service" shall include but not be limited to WHBF, WOC, WQAD, KILN, WGN (Satellite), a local readable community events channel, plus at least three additional channels for future use either for local use or other TV channels for basic service, including Heritage Communications Channel if and when ordered.

3. "Cable Telecommunications Network" or "Network" shall mean any network of cables, optical, electrical, or electronic equipment, including cable television, used for the purpose of transmission of electrical impulses of television, radio and other intelligences, either analog or digital for sale or use by the inhabitants of the city.

4. "City" shall mean the city of Buffalo, its council, officials, boards, commissions, agents and employees unless otherwise specifically designated, and the area within the present and future territorial city limits of the city of Buffalo.

5. "Commission" shall mean the Buffalo Cable Communications Advisory Commission.

6. "Council" shall mean the present governing body of the city of Buffalo or any legally appointed or elected successor or agency constituting the governing body of the city.

7. "FCC" shall mean the Federal Communications Commission and any legally appointed or elected successor.

8. "Grantee" shall mean the person, firm, corporation or other entity granted a franchise in accordance with the provision of this chapter.

9. "Shall" and "will" each is mandatory; "may" is permissive.

10. "Street" shall include all streets, roadways, highways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks, boulevards, easements, rights-of-way, bridges or other public ways and all extensions and additions thereto established and maintained under public authority of the city which have been or may be hereafter dedicated to public use.

11. "Subscriber" shall mean any person, firm, corporation or entity receiving reception service from the Grantee.

12. "Channel" shall mean the segment of the electromagnetic spectrum to which a source of television transmission is assigned.

13. "Franchise" shall mean the rights, privileges, authority granted by the city to the Grantee hereunder and shall include all of the terms and conditions of this chapter.

14. "Person" shall mean any individual, or any corporation, business, firm, or other entity, and shall be construed as singular or plural, or masculine, feminine or neuter, as the context may require.

15. "Private property" shall mean all property, real, personal, or mixed, owned by a private person, in-

cluding property owned by a public utility not owned or operated by the city.

16. "Property of the grantee" shall mean all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

17. "Public property" shall mean all property, real, personal or mixed, owned or used by the city, including property owned or used by a public utility owned or operated by the city, and any easements granted to the public or the city by private property owners.

(Ord. 206, Sec. 2, 1982)

7-3.0303 THE CABLE TELECOMMUNICATIONS NETWORK
FRANCHISE.

1. Authority Granted. This chapter shall give the Grantee the right and privilege to construct, erect, operate, modify and maintain, in, upon, along, above, over and under the streets, as defined in Section 7-3.0302, which are or may be dedicated to public use in the city, any towers, antennas, poles, cables, electronic equipment or other appurtenant equipment necessary for the operation of a Cable Telecommunications Network in the city. The grantee is hereby designated as public utility for purposes of the use of easements dedicated for use by the public utilities and by the city.

2. Duration of Franchise. Upon filing by the Grantee of the proper acceptance, security and insurance, the franchise shall take effect and continue in full force and effect for a period of fifteen (15) years.

3. Franchise Non-exclusive. This franchise shall not be exclusive.

4. Franchise Amendable. Any franchise granted pursuant to this chapter shall be deemed amendable to allow the Grantee to innovate and implement new services and developments; provided, however, that no such services or developments in conflict or inconsistent with the franchise be implemented without the expressed prior approval of the council.

5. Transfer of Franchise. The franchise shall be a privilege to be held for the benefit of the public by the Grantee. The franchise cannot, in any event, be sold, transferred, leased, assigned or disposed of in whole or part, either by forced or voluntary sale, merger, consolidation, mortgage, trust, receivership or any other means without the prior consent of the city and then only under such conditions as the city may establish. Such consent shall not be unreasonably withheld.

6. Contravention of Franchise. In the event a valid law, rule or regulation of any governing authority or agency having jurisdiction contravenes a provision of this chapter after its adoption, the applicable provision of this chapter shall be superseded to the extent it is in conflict and contrary to such law, rule or regulation.

7. Pole Use Agreements Required. The franchise shall not relieve the Grantee of any obligation involved in obtaining pole or conduit use agreements from the power and telephone utilities or other agencies maintaining poles or conduits in the rights-of-ways of the city, whenever the Grantee finds it necessary to make use of said poles or conduits.

(Ord. 206, Sec. 3, 1982)

7-3.0304 OPERATION OF THE FRANCHISE.

1. Availability of Grantee. Grantee shall at all times maintain one (1) listed "toll free" telephone number on a twenty-four (24) hour availability schedule so that complaints and requests for repairs or adjustments may be made at any time.

2. Subscriber's Antennas. The Grantee shall not require the removal or offer to remove any potential or, existing subscriber's antenna as a condition or provision of service.

3. Antenna Switch. The Grantee, upon request from any subscriber, shall install an antenna switching device so as to permit continued use of the subscriber's television antenna, at a charge equal to the material cost of said switch to the Grantee.

4. Compliance with Regulations. Grantee agrees to comply with all applicable city ordinances, resolutions, standards and specifications in effect as of the passage of the ordinance codified in this chapter and any amendments or additions to ordinances, resolutions, standards and specifications which may be in force throughout the period of the franchise.

5. Taxes. The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

6. Assignment. Except for the purpose of obtaining financing, the Grantee shall not assign or transfer the franchise, nor any part of the rights, privileges and authority granted thereunder, without the written consent of the city.

7. Subscriber Privacy. In order to protect the privacy of subscribers, the franchisee shall:

A. Be constantly alert to possible abuses of the right of privacy or any other legal rights of any subscriber, programmer or other persons resulting from any device or signal associated with the system;

B. Discuss the possibility of such abuse at every scheduled review session;

C. Provide devices such as electronic locks, scramblers and warning lights as problems are identified, as the technology becomes available and as reasonable financial arrangements can be made;

D. Keep only such records of viewing and purchasing by subscribers as may be necessary for billing purposes;

E. Not monitor or tabulate any test results in any manner which would reveal the economic status, commercial

product preferences or opinions of subscribers or their families;

F. Not maintain or tabulate any data on the political, religious, moral or social preferences or opinions of subscribers or their families;

G. Not market or otherwise distribute to advertising, marketing or bulk mailing organizations the names and addresses of subscribers or other related information;

H. Install any cable, line, wire, amplifier, converter or other piece of equipment owned by the franchisee without first securing the written permission of the owner, lessee, or tenant of the property involved.

(Ord. 206, Sec. 4, 1982)

7-3.0305 RIGHTS RESERVED TO THE CITY.

1. Grantee Agrees to City's Rights. The city reserves every right and power which is required to be reserved or provided by an ordinance of the city, and the Grantee, by its acceptance of the franchise, agrees to be bound thereby and to comply with any action or requirement of the city in its exercise of such rights or powers which have been or will be enacted or established.

2. City's Right of Intervention. The city shall have the right to petition to intervene and the Grantee specifically agrees by its acceptance of the franchise not to oppose such intervention by the city in any suit or proceeding to which the Grantee is a party.

3. City's Right of Inspection. The city reserves the right, during the term of the franchise, to inspect all construction or installation work performed under provisions of franchise or this chapter and to perform measurements of system operation to insure compliance with franchise technical requirements and city specifications.

(Ord. 206, Sec. 5, 1982)

7-3.0306 VALIDATION AND ACCEPTANCE OF FRANCHISE.

1. Effective Date. The ordinance codified in this chapter shall be in full force and effect from and after its final passage by the city council of the city of Buf-

falo and after publication of said ordinance as required by Iowa law and after a special election confirms that a majority of voters voting desire that the city enter into a non-exclusive franchise, agreement, whichever is the last to occur, and Grantee shall within forty-five (45) days thereafter comply with the following:

A. Statement of Acceptance. A statement by the Grantee of unconditional acceptance of the franchise, its terms, provisions and requirements, shall be submitted in writing to the council.

B. Certificate of Insurance. A certificate of insurance with coverages and amounts as specified in this chapter shall be provided to the city by the Grantee.

C. Performance Bond. Grantee shall execute a performance bond or equivalent security as set forth in this chapter.

D. Reimbursement of Costs. Grantee shall reimburse to the city all franchise related costs including but not limited to costs of elections, including publication fees, and city legal services.

2. Failure to Comply. Should the Grantee fail to comply with the requirements of subsection A above, it shall have abandoned its application and shall acquire no rights or privileges under this chapter and the amount of the performance bond shall be forfeited in full to the city as liquidated damages.

(Ord. 206, Sec. 6, 1982).

7-3.0307 TERMINATION OF FRANCHISE.

1. Grounds for Revocation. The city reserves the right to revoke any franchise and rescind all rights and privileges associated with the franchise in the following circumstances:

A. If the Grantee should default in the performance of any of its obligations under the franchise and fails to rectify the default within thirty (30) days after receipt of written notice of the default from the city, except that the Grantee shall not be responsible for delay caused

by strike, unavailability of materials, or other matters beyond the control of Grantee.

B. If the Grantee should fail to maintain the ability and indemnification coverages and the performance bond as required in this chapter.

C. If the Grantee should become insolvent, be declared a bankrupt, or the property of the Grantee shall come into the possession of any receiver, assignee, or other officer acting under an order of court, and any such receiver, assignee, or other such officer shall not be discharged within sixty (60) days after taking possession of such property.

D. If the Grantee should for a period of thirty (30) days violate any order or ruling of the city or any regulatory body having jurisdiction over the Grantee unless the Grantee is lawfully contesting the legality of such order or ruling or is taking appropriate steps to bring itself within compliance.

E. If the Grantee arbitrarily ceases to provide service over the Network.

2. Procedure for Revocation. Following occurrence of any of the events listed above, the council shall provide written notice to the Grantee of said violations and shall advise the Grantee of the reasons alleged to constitute cause for revocation and shall establish a date of public hearing concerning said violations. Such hearing shall be set within sixty (60) days of notification of the parties. If, during this period the cause shall be cured to the satisfaction of the city, the city may declare any such notice to be null and void. The city may, at such hearing, establish a reasonable time for the Grantee to remedy such cause and may, if remedy has not occurred within such additional time, revoke the franchise without further hearing.

3. Filing Complaints. Nothing in this section shall prohibit the city from filing complaints with the Grantee for lesser violations of this franchise ordinance and requesting correction of the same.

(Ord. 206, Sec. 7, 1982)

7-3.0308 EXPIRATION OF FRANCHISE.

1. Review of Franchise Prior to Expiration. At least nine (9) months prior to the expiration of the franchise, the council shall schedule a public meeting or meetings with the Grantee to review the performance of the Grantee. The council may require the Grantee to provide specified records and information for this purpose and may inquire in particular whether the Grantee is supplying a level and variety of services equivalent to those being generally offered at that time in the industry in comparable market situations. The council shall provide its findings and recommendations to Grantee at least six (6) months prior to termination of said franchise.

2. Determination on Reissue of Franchise. The council shall, within ninety (90) days thereafter, determine whether a franchise shall be reissued, and if so, shall establish the public proceedings leading to such issuance.

(Ord. 206, Sec. 8, 1982)

7-3.0309 PROCEDURE FOLLOWING EXPIRATION OR TERMINATION OF FRANCHISE.

1. Disposition of Facilities. In the event this franchise expires and is not renewed or is revoked the Grantee may, at its option, sell its Network to the city of Buffalo or any duly constituted franchisee of the city of Buffalo at a price mutually agreeable between the parties, or may remove the same. In the event Grantee elects to remove its Network it shall do so immediately, but in any event within at least sixty (60) days from cessation of operation.

2. Restoration of Property. If Network removal is required, the Grantee shall return such public and private property to the owner thereof in the same condition as when the property of the Grantee was placed thereon, excepting conditions of ordinary and unrelated wear and tear.

3. Restoration by City, Reimbursement of Costs. In the event of a failure by the Grantee to complete any work required in subsection 2 above, or of any work required by

law or ordinance not completed in a timely or satisfactory manner, the city may cause such work to be completed for which Grantee shall reimburse the city.

4. Expiration, Extended Operation. Upon the expiration of a franchise, the city may, on its own motion or by request of the Grantee, require the Grantee to operate the Network for an extended period not to exceed six (6) months from the date of any such expiration. All ordinance provisions shall continue in force during said extension.

(Ord. 206, Sec. 9, 1982)

7-3.0310 REPORTS AND RECORDS.

1. Annual Facilities Report. The Grantee shall file annually with the city clerk, within three (3) months of the close of each fiscal year, a total facilities report indicating the total number of subscribers and detailing the total physical miles of plant constructed, rebuilt or in operation during the fiscal year. Such report shall also describe any revisions to the Network "as built" maps which shall be filed with the city. Also, if requested by the city, progress reports on Network construction or rebuild shall be supplied at such intervals as may be established by the city.

2. City's Access to Records. The city shall have the right to access during all normal business hours and upon the giving of reasonable notice, to the Grantee's contracts, engineering plans, accounting, financial data, and service records relating to the franchised property and operations of the Grantee.

(Ord. 206, Sec. 10, 1982)

7-3.0311 FRANCHISE PAYMENT.

1. Annual Franchise Payment. The Grantee shall pay to the city, during the term of the franchise, three (3%) percent of its annual gross subscriber revenues to be utilized by the city to offset its annual regulatory and administrative costs associated with the franchise. "Gross subscriber revenues" shall mean all revenues received by the Grantee from provision of basic service and all additional services, to all subscribers within the city and to those subscribers located outside the city but within two miles of the corporate limits thereof. "Gross subscriber

revenues" shall not include revenues from sales and other taxes levied directly and collected by the Grantee.

2. Payment of Franchise Payment. Grantee shall make all payments due and owing as a franchise fee under subsection 1 of this section, on a semi-annual basis and such payments shall be paid within thirty (30) days after the end of each such period.

3. Rights of Recomputation. No acceptance of any payment by the city shall be construed as a release or as an accord and satisfaction of any claim the city may have for further or additional sums payable as a franchise fee or for the performance of any other obligation of the Grantee.

(Ord. 206, Sec. 11, 1982)

7-3.0312 SUBSCRIBER RATES AND SERVICE AGREEMENTS.

1. Subscriber Rates and Charges. Except as otherwise provided in the franchise, the Grantee shall have the right, privilege, and authority to charge the rates and charges fixed in this section to its subscribers for its services.

At turn-on, single-user rates and charges may be as follows:

SERVICE	PER MONTH	INSTALLATION
Basic	\$4.00	\$15.00
Satellite	5.00	10.00 Service requires a converter \$25.00 deposit.
Premium	9.00	FREE when ordered with Satellite Service. If ordered separately, \$25.00 charge.
Cinemax	9.00	
Extra Outlet	2.00	FREE if ordered with any other service. Otherwise, an installation charge of \$25.00.
Stereo FM	2.00	FREE if ordered with any other service. Otherwise, an installation charge of \$25.00.

Multi-user rates and charges may be negotiated between the Grantee and subscriber, but in no event shall

the multi-user rates and charges for any subscriber exceed the aggregate of rates and charges which would be charged to the multi-set if computed on the basis of single-user rates and charges.

Any commercial or industrial business which wishes to become a subscriber will be served subject to negotiation of installation fees and monthly service shall be agreeable to and negotiated by Grantee and commercial or industrial user.

Disconnection of any or all services shall be at no charge to the subscriber.

2. Basic Service to Public Buildings. Churches, public schools, public libraries, the fire station and municipal buildings, including municipal recreation buildings, shall receive free monthly service. The Grantee shall furnish said buildings with one hook-up without any installation charge, and public schools shall have the right at their own expense to create additional outlets within said public school buildings.

Change of Subscriber Rates and Charges.

A. Grantee's rates and charges presently in effect for installation, moving of equipment and for basic monthly cable television service are hereby approved by the city. A current schedule of rates will be kept on file with the city clerk.

B. For the purposes of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channel is, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, per-channel or per-program charges to subscribers ("pay cable"), rental of channel, or any other services of the system, the rates and charges for which shall not require approval of the city.

C. Grantee shall have the right to change the rates for basic, monthly cable television service, in the following manner:

(1) For the purposes of this section, "CPI" shall mean the Consumer Price Index of the Department of Labor for the present year.

(2) For the purposes of this section, the words "year" and "years" shall mean the calendar year commencing January 1st of each year and ending on the 31st day of December of each year.

(3) For the purposes of this section; "the first yearly period for determining CPI" shall mean the year commencing January 1, 1982 and ending December 31, 1982.

(4) Grantee may increase the monthly rates in any one year charged for the basic monthly cable television service in an amount less than or equal to the percentage of increase of the CPI, or in an amount of eight (8%) percent, whichever amount is the smaller; without obtaining permission of the council.

(5) In the event that Grantee does not desire to raise its rates in any one calendar year it shall be allowed to accumulate the amount of CPI increase, or an amount of eight (8%) percent, whichever is the smaller, as a carry forward as an allowable additional rate increase for any subsequent years, except that Grantee shall not increase the charge for the basic monthly cable television service in any one year by an amount in excess of sixteen (16%) percent, of the total monthly basic cable television rate.

(6) This rate section does not apply to rates to be charged any commercial or industrial business and does not apply to "pay" or "premium" cable, which rates are set at the sole discretion of the Grantee.

(7) Said rates may be increased in percentages larger than set forth in this section upon application by Grantee and acceptance of the proposed increased rates by the council.

D. Before instituting an increase equal to or less than said Consumer Price Index increase, Grantee will fur-

nish to the council a copy of the new rates and charges, as well as information regarding Bureau of Labor Statistics figures on said Consumer Price Index. Such notification shall precede any increase by not less than thirty (30) days and not more than sixty (60) days.

4. Service Rules and Regulations. The Grantee shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. Such rules and regulations shall be consistent with the terms and conditions of the franchise. The Grantee shall file such rules and regulations, and all amendments thereto, with the city.

5. Service Agreements. The Grantee shall have the right to prescribe a reasonable form of service agreement for use between the Grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of this franchise.

(Ord. 206, Sec. 12, 1982)

7-3.0313 INSURANCE; INDEMNIFICATION; PERFORMANCE BOND.

1. The Grantee shall at all times during the term of the franchise carry and require their contractors to carry:

A. Insurance in such forms and in such companies as shall be approved by the city to protect the city and Grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment or appliance. The amount of such insurance shall not be less than five hundred thousand dollars (\$500,000) for damages to property. In addition thereto, Grantee shall carry an umbrella coverage in an amount not less than one million dollars (\$1,000,000). At each five year interval during the term of this franchise, the city shall have the right to review the minimum coverages as specified in this subsection, and may require the Grantee to secure and maintain such additional amounts of coverage as the city deems to be necessary for the protection of the public health and welfare;

B. Workmen's Compensation Insurance as provided by the laws of the State of Iowa as amended;

C. Automobile insurance with limits of not less than five hundred thousand dollars (\$500,000) in liability coverage. In addition thereto, Grantee shall carry an umbrella coverage in an amount not less than one million dollars (\$1,000,000). At each five year interval during the term of this franchise, the city shall have the right to review the minimum coverages as specified in this subsection, and may require the Grantee to secure and maintain such additional amounts of coverage as the city deems to be necessary for the protection of the public health and welfare.

2. All of said insurance coverage shall provide for a ten (10) day notice to the city in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.

3. The Grantee shall at all times defend, indemnify, protect and hold harmless the city from and against any and all liability, losses and damage to property or bodily injury or death to any person, including payments made under workmen's compensation laws, which may arise out of or be caused by the erection, construction, replacement, removal, maintenance or operation of Grantee's network and caused by any act or failure to act on the part of the Grantee, its agents, officers, servants or employees. Grantee shall hold the city harmless against any damages resulting from legal action which may be brought against it in connection with the establishment or operation of Grantee's network in the city and shall defend at its own expense any action brought against the city by reason of the erection, construction, replacement, removal, maintenance or operation of Grantee's network.

4. The Grantee shall secure and furnish to the city and maintain at all times throughout the term of the franchise a performance surety bond in favor of the city of Buffalo in the amount of twenty-five thousand dollars (\$25,000) conditioned upon the faithful performance of the Grantee of all the provisions contained in this franchise

ordinance, and said bond shall be approved by the city of Buffalo's attorney. A certified copy thereof shall be filed and maintained with the city clerk.

(Ord. 206, Sec. 13, 1982)

7-3.0314 CABLE COMMUNICATIONS ADVISORY COMMISSION.

1. Upon the granting of a franchise, there shall be appointed the cable communications advisory commission.

2. The commission shall consist of five members appointed by the council. Each member shall serve a term of five years except that initial appointments shall be for one, two, three, four and five years respectively. Vacancies shall be filled by the council. The mayor shall serve as a non-voting member of the commission.

3. The commission shall perform the following functions:

A. Advise the council on all matters regarding this chapter;

B. Monitor Grantee operations - construction, operation and maintenance;

C. Attempt to resolve conflicts between the Grantee and public or private users;

D. Determine the general policy regarding access channels with the view toward maximizing usefulness to the community;

E. Conduct a public meeting at least annually for public input regarding the operation of the franchise;

F. Meet at least quarterly with the Grantee in an effort to maintain effective communications;

G. Report to the council the results of all commission meetings;

H. Make recommendations to the council for amendments to this chapter.

(Ord. 206, Sec. 14, 1982)

7-3.0315 NETWORK DESCRIPTION.

1. Network Bandwidth Capacity. The network required hereunder shall have a minimum initial forward bandwidth capability of 300 megahertz (Mhz).

Provision shall be made for increasing channel capacity when all available channels are in use and there exists an economically reasonable justification for meeting additional capacity demand. The network shall have at least thirty-five (35) channel capabilities and a converter will be used immediately upon completion of the system. Additional channels will be made available when said channels become available and are of interest to the Buffalo viewers.

2. Network Reverse Capacity. The network required hereunder shall have a minimum reverse bandwidth capability of thirty megahertz (30 Mhz), although activation of such reverse capability shall not be required unless and until there exists an economically reasonable justification for meeting the reverse capability demand.

(Ord. 206, Sec. 15, 1982)

7-3.0316 RESERVATION OF CHANNELS.

1. Education and Government Access Channels. The Grantee shall reserve for future dedication, a minimum of one channel of network bandwidth, for use by the city and by the school district. This channel shall be made available upon demand, and at the then comparable and competitive lease rate, at such time as the city and/or the school district are prepared to utilize said channel.

2. All Channels Emergency Alert. The Grantee shall, in the event of any emergency or disaster, make its entire system available to the city or to a civil defense agency. The system shall be engineered to provide an audio alert system to allow authorized officials to override the audio signal on all channels and transmit emergency information.

3. Closed Caption Emergency Warnings. The Grantee shall as technology permits install its system so as to have the capability of providing "closed caption" emergency warnings.

(Ord. 206, Sec. 16, 1982)

7-3.0317 SERVICE AREA.

1. Initial Geographic Coverage. The Grantee shall design and construct its network so as to initially pass and provide tap off facilities to every single-family dwelling unit, multiple-family dwelling unit, agency and business establishment within the area of the city outlined in the attached zoning map which shall be incorporated as part of this chapter.

2. Conditions of Required Extension. The Grantee shall, at its expense, extend its network where there are sufficient potential subscriber dwelling units so as to yield an average of twenty (20) dwelling units per linear mile from the nearest cable terminal point to any newly annexed or developed areas of the city not then served by a Cable Telecommunications Network or to any resident dwelling within the city limits and within two hundred (200) feet of the existing network trunk line. The Grantee may negotiate an installation charge independent of that prescribed in subsection 1 of Section 7-3.0312 for any extension not required by this section.

3. Extension Policy. The Grantee shall file with the city clerk a copy of its extension policy for potential subscribers for whom the provision of service is not required pursuant to subsections 1 and 2 above. Such policy must be approved by the city and the Grantee shall not make, or refuse to make, any extension except as permitted by the approved policy.

(Ord. 206, Sec. 17, 1982)

7-3.0318 TIME FOR PERFORMANCE.

1. Permit Application. Within thirty (30) days of the effective date of a franchise granted hereunder, the Grantee shall file all applications necessary to permit commencement of construction and operation of the Network and shall thereafter diligently pursue all such applications. The city may, at its discretion, provide assistance to insure the scheduled construction of the Network. If the city determines to acquire necessary rights and easements by condemnation, the Grantee shall bear all such related costs.

2. Commencement Timetable. Upon granting of the franchise for the Network the Grantee shall commence engineering and/or construction of the Network. Completion shall be pursued with reasonable diligence. The Grantee shall provide a copy of its construction plans to the city engineer prior to commencing construction.

3. Completion of Construction. Within twelve (12) months of the effective date of awarding the franchise, the Grantee shall have placed in use sufficient distribution facilities so as to permit the offering of basic subscriber services to one hundred percent (100%) of the area defined in subsection of Section 7-3.0317, except for those areas where right-of-way for service installation cannot be obtained.

4. Delays and Extension of Time. The city may, in its discretion, extend the time for the Grantee, if acting in good faith, to perform in such cases as the Grantee is being subjected to delay or interruption due to circumstances reasonably beyond its control.

5. Liquidated Damages. Subject to the provisions of subsection 1(A) of Section 7-3.0307 and subsection 4 of this section, Grantee shall pay to the city the sum of one hundred dollars (\$100) per day as liquidated damages until Grantee has completed performance as required hereunder.

(Ord. 206, Sec. 18, 1982)

7-3.0319 CONDITIONS OF STREET OCCUPANCY.

1. Installation of Cables And Equipment. All installations shall be underground in those areas of the city where both existing telephone and electric services are underground at the time of network construction. In areas where either telephone or electric utility facilities are installed aerially at the time of construction, the Grantee may install its facilities aerially with the understanding that at such time as both the telephone and electric facilities are required to be placed underground by the city, the Grantee shall likewise place its services underground without additional cost to the residents of the city.

2. Excavation Permits. The Grantee shall not disturb or open the surface of any street, sidewalk, driveway or public place for any purpose without having first obtained any necessary permit as may be required by the city.

3. Restoration of Ground Surface. In case of any disturbance of pavement, sidewalk, driveway or other ground surface, whether on public or private property, the Grantee shall, at its own expense, and in a manner approved by the city or the property owner, replace and restore said surface to the same conditions as before such work was commenced.

4. Changes Required by Public Improvements. The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate or remove from the street or other public place, any property of the Grantee when required by the city by reason of modifications or improvements undertaken by the city or its agents.

5. Temporary Removal of Cables. The Grantee shall, upon the request of any person holding a valid building or equipment moving permit issued by the city, temporarily raise or lower its cable to permit such movement. The expense of such temporary removal shall be borne by the person requesting same and the Grantee shall have the authority to request payment in advance. The Grantee shall be given not less than five (5) days advance notice of any such move to arrange for said temporary cable changes.

6. Authority to Trim Trees. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the city so as to prevent the limbs of such trees from contacting the cables and equipment of the Grantee. All trimming shall be done at the expense of the Grantee. The city may, at its discretion, require such additional trimmings as it deems necessary to preserve the symmetrical appearance of the tree.

7. Office and Records in City. The Grantee shall make and keep at all times in the City Hall a full and complete set of plans showing the exact location of all

network equipment installed on or in the streets and other public places of the city. The Grantee shall also provide to the city clerk a set of network "as built" maps drawn to scale showing all network facilities installed in the city. Subscriber drops need not be shown.

8. Grantee to Locate Buried Services. Grantee shall upon request of the city for the convenience of contractors or its residents designate the exact location of buried services by visible markings within twenty-four (24) hours of said request.

9. Depth of Buried Services. Grantee shall install all buried services at least twelve (12) inches below the ground surface.

(Ord. 206, Sec. 19, 1982)

7-3.0320 NETWORK TECHNICAL REQUIREMENTS.

1. General Requirements. Each broadband telecommunications network must be so designed, installed and operated as to meet the following general requirements:

A. Capable of continuous twenty-four (24) hours daily operation;

B. Capable of operating over an outdoor temperature range of -40 degrees F. to +140 degrees F. without catastrophic failure or irreversible performance changes over variations in supply voltages from 105 to 130 volts AC;

C. Capable of meeting all specifications set forth herein over an outdoor temperature range of -20 degrees F. to +100 degrees F. over variations in supply voltages from 105 to 130 volts AC;

D. Operated in such a manner as to avoid causing interference with reception of off-the-air signals by non-subscribers to the network;

E. Designed, installed and operated so as to comply with all applicable rules and regulations promulgated by the Federal Communications Commission;

F. Designed, installed and operated so as to assure the delivery of all subscribers of standard color and monochrome signals on the FCC-designated Class I television channels without noticeable picture degradation or visible evidence of color distortion or other forms of interference directly attributable to the performance of the Broadband, Telecommunications Network.

2. Class I Channel Performance Requirements. The following requirements apply to network performance on the FCC-designated Class I television channels as measured at any subscriber terminal with a matched termination:

A. The signal level as measured at the visual carrier frequency for each television channel shall average 2,000 UV (microvolts) and not be less than 1,000 UV (microvolts) across a 75 ohm terminating impedance. The aural carrier level shall be maintained between 13 and 17 decibels below its associated visual carrier level.

B. The video carrier signal level on each television channel shall not exceed:

+ A maximum level such that signal degradation due to overload in the subscriber receiver does not occur.

+ Two (2) decibels of the signal level of the video carrier of any adjacent channel.

+ Twelve (12) decibels of the video carrier signal level on any other television channel.

C. Broadband Telecommunications Network frequency response as measured at any subscriber terminal shall not vary more than \pm two decibels from one (1) Mhz below the video carrier frequency to four (4) Mhz above the video carrier frequency of any television channel containing color programming.

D. The corrected ratio of visual signal level to network noise shall not be less than forty (40) decibels in accordance with NCTA standard 005-0069.

E. Cross-modulation as measured at any visual carrier frequency from the network input to any trunk amplifier station or to any subscriber terminal will be maintained at least fifty-seven (57) db below the desired signal carrier level at any point on the trunk and will be a minimum of fifty-two (52) db below the desired signal; carrier level at any subscriber terminal (NCTA standard 002.0267).

F. The ratio of visual carrier signal level to the RMS amplitude of any coherent disturbances such as intermodulation products, network generated or induced co-channel signals or discrete frequency interfering signals shall not be less than forty-six (46) decibels except for officially assigned offset carriers for which it shall not be less than thirty-six (36) decibels.

G. The terminal isolation between subscribers shall not be less than twenty-five (25) decibels except that the isolation between multi-terminals of one subscriber shall not be less than eighteen (18) decibels.

H. The hum and low-frequency disturbance level shall not exceed four percent (4%) peak-to-peak modulation at maximum, NCTA standard.

I. Radiation from the Broadband Telecommunications Network shall be in accordance with the limits set forth in Part 76, Section 76.605 (a) (12) of the FCC Rules and Regulations.

3. Standards Modified Where Necessary. Notwithstanding the fact that the network may be in compliance with all the standards set forth herein, the city may require a higher level of performance in any area to resolve signal quality or interference problems.

4. Specifications for Additional Channels to be Submitted. Proposed specifications for FCC designated Class II, III and IV channels shall be submitted by the Grantee to the city as the use of these channels is implemented.

(Ord. 206, Sec. 20, 1982)

7-3.0321 PERFORMANCE MEASUREMENTS.

1. General Requirements. Test procedures used in verification of the performance criteria set forth herein shall be in accordance with criteria set forth herein and shall be in accordance with good engineering practice. The test procedures specified in subsection 2 of this section are designed as a guide and should be made under conditions which reflect network performance during normal operation. As there is more than one technically acceptable method for performing many of the measurements, the technique and equipment utilized in each case, if different from those set forth below, shall be fully described in the annual certificate filed with the city.

2. Measurements Procedures. At such time as substantial completion of construction has been achieved and at regular intervals not to exceed one (1) year, Grantee shall conduct a "proof of performance" measurement of the Broadband Telecommunications Network to at least three (3) subscriber locations, at least two (2) of which shall be "worst case" locations at the network extremity. Measurements shall be made from the head end of the network in each community served. The measurements may be made as follows:

A. Network frequency response measurements may be made with a calibrated sweep frequency generator, variable attenuator and a quality grade of spectrum analyzer. All television signals except for ALC, AGC, or ASC pilot carriers may be disconnected during this test. With all automatic gain control amplifiers in the section under test set to their normal operating mode, the sweep generator shall be connected to the input of the Broadband Telecommunications Network and set for a full bank 300 Mhz sweep at a signal level equal to the approximate average video signal level of normal programming normally present at the input of the Network. With the spectrum analyzer set to 75 ohms termination and connected at the subscriber terminal under test, the full band spectral display of the analyzer shall be still photographed. The photograph should contain sufficient resolution to permit easy interpretation by trained persons. Measurements shall then be made and recorded for all video carrier frequencies normally carried on the network.

B. Network signal-to-noise measurements may be made in accordance with NCTA Standard 005.0669.

C. The network cross-modulation measurement may be performed in accordance with NCTA Standard 002.0267.

D. The amplitude of the discrete frequency interferences within a television channel may be determined with a frequency selective voltmeter, calibrated for adequate accuracy.

E. The terminal isolation between any two subscriber terminals may be measured by applying a signal of predetermined amplitude from a signal generator to one terminal in the reverse direction and measuring the amplitude of that signal at the other terminal with a frequency selective voltmeter.

F. The network hum modulation may be measured at each visual carrier frequency on the network using a calibrated signal generator, a detector and an oscilloscope. The signal generator shall be connected, and the level and frequency set at a predetermined mode with all other channels set at their normal levels. With the detector and oscilloscope connected to the subscriber terminal, the average level of the detected signal and the peak-to-peak AC hum will be indicated on the oscilloscope.

G. Radiation measurements may be made in accordance with the procedures established in Part 76, Section 76.609(h)(1) - (h)(5) of the FCC Rules and Regulations.

3. Additional Tests and Inspection. The city reserves the right to:

A. Require additional tests at specific terminal locations in the event of particular problems in the network;

B. Conduct its own inspections of the Broadband Telecommunications Network on its own motion at any time during normal business hours upon the provision of reason-

able notice. The Grantee shall have a representative available during such inspection.

4. Report of Measurements Combined. To the extent that the report of measurements as required above may be combined with any reports of measurements required by the FCC or other regulatory agencies, the city shall accept such combined reports, provided that all standards and measurements herein or hereafter established by the city are satisfied.

(Ord. 206, Sec. 21, 1982)

7-3.0322 SERVICE STANDARDS.

1. Grantee shall at all times provide and maintain within the city a service technician who shall be a resident of the city, so that subscriber complaints and requests for repairs or adjustments can be resolved within twenty-four (24) hours during normal business days and if at all possible within the same day reported. Individual home failures during the night shall be resolved during the following day.

2. In such cases where a network problem has caused loss of service to more than one subscriber, the response time for such problem shall be immediate, but in no event exceed two (2) hours.

(Ord. 206, Sec. 22, 1982)

7-3.0323 UNAUTHORIZED CONNECTIONS OR MODIFICATIONS A CRIME.

1. Injury to Property of the Grantee. It shall be unlawful for any person to wrongfully or unlawfully injure the property of the Grantee or to deliberately interfere with the dissemination of cable television, and any person so doing shall be deemed to be guilty of a misdemeanor and punishable under subsection 3 of this chapter.

2. Intercepting Signals of the Grantee. It shall be unlawful for any person to intercept or receive the signals of the Grantee without having subscribed for said services and entered into an agreement to pay for said services, and any person so doing shall be deemed to be guilty of a misdemeanor and punishable under subsection 3 of this chapter.

3. Penalty. Any person violating any of the provisions of subsections 1 or 2 of this chapter shall, upon conviction, be subject to a fine of not to exceed one hundred dollars (\$100) and/or imprisonment not exceeding thirty (30) days.

(Ord. 206, Sec. 23, 1982)

7-3.0324 INTERCONNECTION.

1. No Prohibition of Interconnection. Nothing in this chapter shall be construed so as to prohibit the Grantee from interconnecting its network with other cable telecommunication networks in the city, other municipalities, counties or states.

(Ord. 206, Sec. 24, 1982)

7-3.0325 PREFERENTIAL OR DISCRIMINATORY PRACTICES PROHIBITED.

1. Services to be Equally Available. The Grantee shall not, in making available the services or facilities of its network, or in its rules or regulations, or in any other respect, make or grant preferences or advantages to any subscriber or potential subscriber to the network and shall not subject any person to any prejudice or disadvantage. This provision shall not prohibit promotional campaigns to stimulate subscriptions to the network or other legitimate uses thereof; nor shall it prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification shall be entitled.

2. Fairness of Accessibility. The entire network shall be operated in a manner consistent with the principle of fairness and equal accessibility of its facilities, equipment, channels, studios, and other services to all citizens, businesses, public agencies, or others entitled having a legitimate use for the network, and no one shall be arbitrarily excluded from its use.

(Ord. 206, Sec. 25, 1982)

CHAPTER 4 - COMMUNICATION TOWERS AND ANTENNAS

7-4.0101 PURPOSE AND GENERAL POLICY.

The council finds that in order to ensure public safety and provide efficient delivery of services by the city and others wishing to utilize wireless communication technologies, in order to protect public and private investments, ensure the health, safety and welfare of the population, to provide for the regulation and administration of the orderly location of antenna arrays and towers and to secure the rights of the city to a return on its investment on public property, it is necessary for the city to establish uniform rules and policies. This amendment is to be interpreted in light of these findings for the benefit of the citizens of the city of Buffalo.

(Ord. 361, 1999)

7-4.0102 DEFINITIONS.

As used in this amendment:

1. "Communications tower" shall mean a tower, pole or similar structure which supports a telecommunications antenna operated for commercial purposes above ground in a fixed location, free standing, guyed or on a building.

2. "Telecommunications" shall mean the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

3. "Antenna" shall mean a device, dish or array used to transmit or receive telecommunications signals.

4. "Height" of a communication tower is the distance from the base of the tower to the top of the structure.

(Ord. 361, 1999)

7-4.0103 LOCAL REGULATION AND COMPLIANCE WITH THE TELECOMMUNICATIONS ACT OF 1996.

The Telecommunications Act of 1996 prohibits the city from establishing policies that discriminate against one or a group of providers in favor of another or another group of providers or potential providers. The following

objectives shall be applied consistently to all telecommunications providers that request a location on city property for their communication towers and antennas.

1. To minimize the overall number of towers located in the city, providers may be required to participate in collocation agreements.

2. To ensure that new towers will be safe and blend into their environment, providers will propose designs consistent with site characteristics.

3. To minimize placement of wireless equipment in highly populated areas, residential locations will be considered as a last resort.

4. To assure revenues from site leases of city-owned and controlled land and structures reflects fair compensation for use of city property and administration of this amendment.

(Ord. 361, 1999)

7-4.0104 LEASE REQUIRED.

No person or other entity shall use any public property without first obtaining a lease from the city.

(Ord. 361, 1999)

7-4.0105 FEE REQUIRED.

No lease for the use of public property shall be granted without requiring the lessee thereof to pay a reasonable and competitively neutral fee for the use of that public property.

(Ord. 361, 1999)

7-4.0106 LIMIT ON TERM.

No lease for the use of public property shall be granted for a term of more than twenty-five (25) years. (Note: City may opt for a shorter term.)

(Ord. 361, 1999)

7-4.0107 PRIORITIES.

Priority of the use of city-owned land for communication antennas and towers will be given to the following entities in descending order of priority:

1. All functions of the city of Buffalo.
2. Public safety agencies that are not a part of the city, including law enforcement, fire and ambulance services, and private entities with a public safety agreement with the city.
3. Other governmental agencies for uses which are not related to public safety.
4. Entities providing licensed commercial communications services, including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public for business and/or personal use.

(Ord. 361, 1999)

7-4.0108 PLACEMENT REQUIREMENTS.

The placement of communications antennas or towers on city-owned property must comply with the following requirements:

1. The antenna or tower will not interfere with the purpose for which the city-owned property is intended.
2. The antenna or tower will have no adverse impact on surrounding private property.
3. The applicant will produce proof of adequate liability insurance for potential damage antennas or towers could reasonably cause to city property and facilities and commit to a lease agreement which includes equitable compensation for the use of public land and other necessary provisions and safeguards. The fees shall be established by the city council and shall reflect potential expense and risks to the city and other appropriate factors.
4. The applicant will submit a letter of credit, performance bond, or other security acceptable to the city to cover the cost of antenna or tower removal.

5. The antennas or towers will not interfere with other uses which have a higher priority as discussed in the paragraphs above.

6. Upon reasonable notice, the antennas or towers may be required to be removed at the user's expense.

7. The applicant must reimburse the city for any costs which it incurs because of the presence of the applicant's antenna or tower.

8. The user must obtain all necessary land use approval.

9. The applicant will cooperate with the city's objective to promote collocations and thus limit the number of separate antenna sites requested.

(Ord. 361, 1999)

7-4.0109 APPLICATION PROCESS.

All applicants who wish to locate a communications antenna or tower on city-owned or private property must submit to the city building commissioner a completed application accompanied by a fee of two hundred dollars (\$200.00) and the following documents, if applicable:

1. Documents:

A. One copy of typical specifications for proposed structures and antennas, including description of design characteristics and material.

B. A site plan drawn to scale showing property lines, tower location, tower height, guy wires and anchors, existing structures, photographs or elevation drawings depicting typical design of proposed structures, parking, fences, landscape plan, and existing land uses on adjacent property. A site plan is not required if the antenna is to be mounted on an approved existing structure.

C. A current map or update for an existing map on file showing locations of applicant's antennas, facilities, existing towers and proposed towers which are re-

flected in public records, serving any property within the city.

D. A report from a structural engineer showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANS/EIA/TIA 222, latest revision standards.

E. Identification of the owners of all antennas and equipment to be located on the site.

F. Written authorization from the site owner for the application.

G. Evidence that a valid FCC license for the proposed activity has been issued.

H. A line of sight analysis showing the potential visual and aesthetic impacts on adjacent residential districts.

I. A written agreement to remove the tower and/or antenna within one hundred eighty (180) days after cessation of use.

J. Additional information, as required, to determine that all applicable zoning regulations are met.

K. Any communications facilities located on the roof of an antenna support structure must be set back at least one foot from the edge of the roof of the structure. This setback requirement shall not apply to (1) communications facilities located above the roof of the structure if the facilities are appropriately screened from view through the use of panels, walls, fences or other screening techniques approved by the city, or (2) camouflage antennas that are mounted to the exterior of the antenna support structures below the roof, but do not protrude more than twenty-four (24) inches from the side of such an antenna support structure.

2. Conditions. Applicant must also show evidence that all of the following conditions which are applicable are met:

A. Applicant must show that the proposed communications tower, antenna or accessory structure will be placed in a reasonably available location that will minimize the visual impact on the surrounding area and allow the facility to function in accordance with minimum standards imposed by applicable communications regulations and applicant's technical design requirements.

B. Applicant must show that a proposed antenna and equipment cannot be accommodated and function as required by applicable regulations and applicant's technical design requirement without unreasonable modifications on any existing structure or tower under the control of the applicant.

C. Applicant for a permit in a residential district must show that the area cannot be adequately served by a facility placed in a nonresidential district for valid technical reasons.

D. Prior to consideration of a permit for location on private property which must be acquired, applicant must show that available publicly owned sites, and available privately owned sites occupied by a compatible use, are unsuitable for operation of the facility under applicable communications regulations and applicant's technical design requirements.

E. Applicant must provide the names, addresses and telephone numbers of all owners of other towers or useable antenna support structure within a one-half mile radius of the proposed new tower site, including city-owned property, and written documentation that the applicant (1) made diligent but unsuccessful efforts for a minimum of forty (40) days prior to the submission of the application to install or collocate the applicant's telecommunications facilities on towers or useable antenna support structures owned by the city and other persons located within a one-half mile radius of the proposed tower site, or (2) written technical evidence from an engineer that the proposed

tower or facilities cannot be installed or collocated on another person's tower or support structure within a one-half mile radius of the proposed tower and must be located at the proposed site in order to meet the coverage requirements of the applicant's wireless communications system.

F. Applicants must show that a new tower is designed to accommodate additional antenna equal in number to applicant's present and future requirements.

G. Applicant must show that all applicable health, nuisance, noise, fire, building and safety code requirements are met.

H. All towers and communications facilities shall be of camouflage design standards. Examples of camouflage facilities include, but are not limited to, architecturally screened roof, roof-mounted antennas, antennas integrated into architectural elements, telecommunications towers designed to blend into the surrounding environment or to look other than a tower, such as light poles, power poles and trees. At a minimum, all towers not requiring FAA painting or markings shall have an exterior finish which is galvanized or painted dull blue, gray or black.

I. Applicant must show by certificate from a registered engineer that the proposed facility will contain only equipment meeting FCC rules, and must file with the city clerk-financial officer a written indemnification of the municipality and proof of liability insurance or financial ability to respond to claims up to one million dollars (\$1,000,000.00) in the aggregate which may arise from operation of the facility during its life, at no cost to the municipality, in form approved by the city attorney.

J. Land use regulations, visibility, fencing, screening, landscaping, parking, access, lot size, exterior illumination, sign, storage, and all other general zoning district regulations except setback and height, shall apply to the use. Setbacks on all sides shall be a distance equal to the height of the tower. The following height conditions apply:

i. Residential - R-1 Single-family Residence, R-2 Two-Family Residence and R-3 General Residence Districts. Freestanding tower with height not exceeding one hundred (100) feet is a permitted conditional use: height exceeding one hundred (100) feet requires special exception.

ii. Commercial - C-1 General Commercial and C-3 Highway-Oriented Commercial Districts. Freestanding or guyed tower with height not exceeding one hundred eighty (180) feet is a permitted conditional use: height exceeding one hundred eighty (180) feet requires special exception.

iii. Industrial - I-1 General Industrial District. Freestanding or guyed tower with height not exceeding three hundred sixty (360) feet is a permitted conditional use: height exceeding three hundred sixty (360) feet requires special exception.

iv. Other (List Districts) Freestanding or guyed tower with height not exceeding five hundred (500) feet is a permitted conditional use: Height exceeding five hundred (500) feet requires special exception.

K. A tower must be a minimum distance equal to one and one-half the height of the tower from property designated historic or architecturally significant, and must be set back from all lot lines distances equal to the district setback requirements or twenty-five (25) percent of the tower height, whichever is greater.

All responses to applications for siting of telecommunications towers and facilities shall be in writing and shall be made within thirty (30) days after all application materials are received.

(Ord. 361, 1999)

7-4.0110 NOISE AND EMISSION STANDARDS.

No equipment shall be operated at towers and telecommunications facilities so as to produce noise in excess of applicable noise standards under WAC 173-60, except during emergencies or periodic routine maintenance which requires the use of a backup generator, where the noise standards may be exceeded temporarily.

The Federal Telecommunications Act of 1996 gives the FCC sole jurisdiction to regulate radio frequency emissions. Facilities that meet the FCC standards shall not be conditioned or denied on the basis of emissions impacts. Applicants for tower sites shall be required to provide information on the projected power density of the facility and how this meets FCC standards.

(Ord. 361, 1999)

7-4.0111 PLACEMENT OF FACILITIES AND RELATED LEASE FEES.

The placement and maintenance of communications antennas or towers on city-owned sites, such as water towers and parks, will be allowed when the following additional requirements are met:

1. Water Tower or Reservoir Sites. The city's water tower and reservoir represent a large public investment in water pressure stabilization and peak capacity reserves. Therefore, its protection is of prime importance. As access to the city's water storage system increases, so does the potential for contamination of the public water supply. For these reasons, the placement of communications towers or antennas on water towers or reservoir sites will be allowed only when the following requirements are met.

A. The applicant must have written approval from the public works director each time access to the facility is desired. This will minimize the risk of contamination to the water supply.

B. There is sufficient room on the structure and/or the grounds to accommodate the applicant's facility.

C. The presence of the facility will not increase the water tower or reservoir maintenance cost to the city.

D. The presence of the facility will not be harmful to the health or safety of the workers maintaining the water tower or reservoir.

E. A fee will be assessed for placing facilities on a city water tower, such fee to be determined by the city council.

2. Parks. The presence of certain communications antennas or towers represents a potential conflict with the purpose of certain city-owned parks and recreational facilities. Towers shall be prohibited in designated conservation areas. Communications antennas or towers will be considered only in the following parks after the recommendation of the park board and approval of the city council:

A. Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use.

B. Commercial recreational areas and major ball fields.

C. Park maintenance facilities.

D. Fee for placing facilities on park property, such fee to be determined by the city council.

(Ord. 361, 1999)

7-4.0112 ABANDONMENT.

In the event the use of any communications tower has been discontinued for a period of one hundred eighty (180) consecutive days, the tower shall be deemed to be abandoned. Determination of date of abandonment shall be made by the building commissioner, who shall have the right to request documentation and/or affidavits from the communication tower owner/operator regarding the issue of tower usage. Upon such abandonment, the owner/operator of the tower shall have an additional one hundred eighty (180) days within which to: (1) reactivate the use of the tower or transfer the tower to another owner/operator who makes actual use of the tower, or (2) dismantle and remove the tower. At the earliest, one hundred eighty-one (181) days from the date of abandonment, without reactivating or upon completion of dismantling and removal, any special exception and/or variance approval for the tower shall automatically expire.

(Ord. 361, 1999)

7-4.0113 TERMINATION.

The city council may terminate any lease if it is determined that any one of the following conditions exist:

1. A potential user with a higher priority cannot find another adequate location and the potential use would be incompatible with the existing use.

2. A user's frequency broadcast unreasonably interferes with other users of higher priority, regardless of whether or not this interference was adequately predicted in the technical analysis.

3. A user violates any of the standards in this ordinance or the conditions attached to the city's lease agreement.

Before taking action, the city will provide notice to the user of the intended termination and the reason for it, and provide an opportunity for a hearing before the city council regarding the proposed action. This procedure need not be followed in emergency situations.

(Ord. 361, 1999)

7-4.0114 HOME RULE.

This amendment is intended to be and shall be construed as consistent with the reservation of local authority contained in the Twenty-fifth Amendment to the Iowa Constitution granting cities Home Rule powers. To such end, any limitation on the power of the city contained herein is to be strictly construed and the city reserves to itself the right to exercise all power and authority to regulate and control its local affairs and all ordinances and regulations of the city shall be enforced against the holders of any lease.

(Ord. 361, 1999)

7-4.0115 NEW TECHNOLOGIES.

Should, within the term of any lease, developments within the field for which the grant was made to the holder of the lease present the opportunity to the holder of the lease to be more effective, efficient and economical though the use of a substance or material other than

those for which the lease was originally made, the holder of the lease may petition the city council which, with such requirements or limitations as it deems necessary to protect public health, safety and welfare, may allow the use of such substances under the terms and conditions of the lease.

(Ord. 361, 1999)

TITLE VIII - TRANSPORTATION
CHAPTER 1 - STREETS AND ALLEYS

ARTICLE 1
STREET REGULATIONS

8-1.0101 REMOVAL OF WARNING DEVICES.

It shall be unlawful for a person to willfully remove, throw down, destroy or carry away from any highway, street, alley, avenue or bridge any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed 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, 1975, Sec. 714.19)

8-1.0102 OBSTRUCTING OR DEFACING STREETS.

It shall be unlawful for any person to obstruct, deface, or injure any public road in any manner.

(Code of Iowa, 1975, Sec. 716.6)

8-1.0103 SPILLING DEBRIS ON STREETS OR HIGHWAY.

It shall be unlawful for any person to spill, throw or deposit on any street or highway any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance. The scheduled fine will be one hundred dollars (\$100.00) plus court costs and surcharge.

(Ord. 353, 1997: Code of Iowa, 1975, Sec. 321.369)

8-1.0104 INJURING NEW PAVEMENT.

It shall be unlawful for any person to willfully injure new pavement in any street, alley or sidewalk by willfully driving, walking or making marks on such pavement before it is ready for use.

8-1.0105 PLAYING IN STREETS.

It shall be unlawful for any person to coast, sled or play games on streets or highways except in the areas blocked off by the chief of police for such purposes.

8-1.0106 EXCAVATIONS.

1. Permit. No person shall dig, excavate or in any manner disturb any street in the city, unless such person shall first obtain a permit therefor as hereinafter provided or as provided in other sections of the city code.

2. Requirements. Before such permit shall be granted, the person shall file with the city administrator a written application. The application shall give an exact description of the property, by lot and street number, in front of or along which it is desired to excavate, state the purpose and for whom and by whom the excavation is to be made, and who will be responsible for the refilling of said ditch and maintaining the affected area in accordance with the excavation provisions of Section 3-3.0114.

8-1.0107 DUMPING OF SNOW.

It shall be unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of streets so as to obstruct gutters, or impede the passage of vehicles upon the street or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the central business district it is absolutely necessary to move the snow onto the streets temporarily, such accumulation shall be removed promptly by the property owner or his agent, and only after first making arrangements for such prompt removal at the owner's cost of the accumulation within a reasonably short time.

ARTICLE 2
CONTROLLED ACCESS FACILITIES

8-1.0201 EXERCISE OF POLICE POWER.

This article shall be deemed an exercise of the police power of the city under Chapter 306A, Code of Iowa, 1973, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, 1975, Sec. 306A.1)

8-1.0202 DEFINITION.

The term "controlled access facility" shall mean a highway or street especially designed for through traffic, and over, from or to which owners or occupants of abutting land or other persons have no right or easement or only a controlled right of easement of access, light, air or view by reason of the fact that their property abuts upon such controlled-access facility or for any other reason.

(Code of Iowa, 1975, Sec. 306A.2)

8-1.0203 RIGHT OF ACCESS LIMITED.

No person shall have any right to ingress or egress to, from or across any controlled access facility except at such points as may be permitted by the Iowa Highway Commission and designated by ordinance.

(Code of Iowa, 1975, Sec. 306A.4)

8-1.0204 ACCESS CONTROLS IMPOSED ON IOWA #22.

Access to Highway #22 in the city of Buffalo, from Station 188+77.5 (197.5 feet west of Dodge Street) to Station 273+375 ECL shall be limited to the presently existing driveways and entrances as shown below:

Station	Side	Type	Width
189+50	Lt.	Residential	18'
192+23	Lt.	Commercial	42'
196+05	Lt.	Commercial	30'
211+63	Lt.	Residential	24'
218+25	Lt.	Farm Ent.	24'
244+80	Lt.	Commercial	30'
262+35	Lt.	Commercial	30'
198+31	Rt.	Commercial	32'
208+42	Rt.	Commercial	18'
244+50	Rt.	Commercial	24'

Station	Side	Type	Width
262+12	Rt.	Commercial	60'

ARTICLE 3
BUILDING NUMBERING
(Reserved For Future Use)

ARTICLE 4
NAMING OF STREETS
(Reserved For Future Use)

ARTICLE 5
VACATION AND DISPOSAL

8-1.0501 POWER TO VACATE.

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

(Code of Iowa, 1975, Sec. 364.12 [2a])

8-1.0502 PLAN COMMISSION.

Any proposal to vacate a street or alley shall be referred by the council to the planning commission for its' study and recommendation prior to further consideration by the council. The planning commission shall submit a written report including recommendations to the council within 30 days of the date the proposed vacation was referred to it.

(Code of Iowa, 1975, Sec. 392.1)

8-1.0503 NOTICE OF VACATION HEARING.

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

8-1.0504 FINDINGS REQUIRED.

No street or alley, or portion thereof, shall be vacated unless the council finds that:

1. Public Use. The street or alley proposed to be vacated is not needed for the use of the public, and, therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street of alley reasonable access to their property.

(Code of Iowa, 1975, Sec. 364.15)

8-1.0505 DISPOSAL OF STREETS OR ALLEYS.

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

(Code of Iowa, 1975, Sec. 364.7)

8-1.0506 DISPOSAL BY GIFT LIMITED.

The city may not dispose of a vacated street or alley, or portion thereof, by gift except to a governmental body for a public purpose.

(Code of Iowa, 1975, Sec. 364.7)

CHAPTER 2 - SIDEWALK REGULATIONS

8-2.01 DEFINITIONS.

For use in this chapter the following terms as defined:

1. "Sidewalk" shall mean all permanent public walks in business, residential or suburban areas.

2. "Broom Finish" shall mean a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

3. "Wood Float Finish" shall mean a sidewalk finish that is made by smoothing the surface of the sidewalk with wooden trowel.

4. "Portland Cement" shall mean any type of cement except bituminous cement.

5. "One-course Construction" shall mean that the full thickness of the concrete is placed at one time, using the same mixture throughout.

6. "Established Grade" shall mean that grade established by this city for the particular area in which a sidewalk to be constructed.

7. "Business District" shall have the same meaning as defined in Section 2.1-2.0102 [5].

8. "Superintendent" shall mean the city street superintendent.

8-2.02 REPAIR, REPLACEMENT OR RECONSTRUCTION.

The council may serve notice on the abutting property owner, by certified mail, requiring him to repair, replace or reconstruct sidewalks within a reasonable time.

(Code of Iowa, 1975, Sec. 364.12 [2d])

8-2.03 CITY ACTION WHEN OWNER FAILS TO PERFORM.

If the abutting property owner does not perform an action required under Section 8-2.02 within the time stated in the notice, the council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, 1975, Sec. 364.12 [2e])

8-2.04 SIDEWALK STANDARDS.

Sidewalks repaired, replaced or reconstructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well drained soil. Where soil is not well

drained, a three (3) inch sub-base of compact, clean, coarse gravel, sand, or cinders shall be laid. The adequacy of the soil drainage is to be determined by the city.

4. Sidewalk Bed. The sidewalk bed shall be graded to the established grade.

5. Length, Width and Depth.

A. Residential sidewalks shall be at least four (4) feet wide and four (4) inches thick, and each section shall be no more than six (6) feet in length.

B. Business district sidewalks shall extend from the property line to the curb. Each section shall be four (4) inches thick and no more than six (6) feet in length and width.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) fourteen inches (14") from the property line, unless the council shall establish a different distance due to circumstances.

7. Grade. Curb tops shall be on level with the center line of the street which shall be the established grade.

8. Elevations. The street edge of a sidewalk shall be at an elevation even with the curb 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. Slope. All sidewalks shall slope .25 inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a "broom" or "wood float" finish.

11. Ramps for Handicapped. There shall be not less than two (2) curb cuts or ramps per lineal block which shall be located on or near the crosswalks at intersections. Each curb cut or ramp shall be at least thirty

inches wide, shall be sloped at not greater than one (1) inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one (1) 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 handicapped persons using the sidewalk.

12. Brick Sidewalks. Brick sidewalks may be repaired or reconstructed under the following conditions:

A. The appropriate building permit shall be obtained from the city. The fee for the permit shall be the minimum amount.

B. The bricks shall be removed and the original bricks shall be used for the repair or reconstruction.

C. The sidewalk base and grade shall be reviewed and inspected by the city building inspector at both the beginning and completion of the repair or reconstruction.

(Ord. 394, 2004; Code of Iowa, 1975, Sec. 601d.9)

8-2.05 REMOVAL OF SNOW, ICE AND ACCUMULATIONS.

It shall be the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within a reasonable time, the city may do so and assess the costs against the property owner for collection in the same manner as a property tax.

(Code of Iowa, 1975, Sec. 364.12 [2b and e])

8-2.06 AWNINGS: STANDARDS.

It shall be unlawful for a person to erect or maintain any awning over any sidewalk unless all parts of the awning are elevated at least seven (7) feet above the surface of the street or sidewalk and the roof or covering is made of duck, canvas or other suitable material supported by iron frames or brackets securely fastened to the building, without any posts or other device that will obstruct the sidewalk or hinder or interfere with the free passage of pedestrians.

8-2.07 ENCROACHING STEPS.

It shall be unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the council.

8-2.08 OPENINGS AND ENCLOSURES.

It shall be unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the council.

2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

8-2.09 FIRES ON SIDEWALK.

It shall be unlawful for a person to make a fire of any kind on any sidewalk.

8-2.10 FUEL ON SIDEWALK.

It shall be unlawful for a person to place or allow any fuel to remain upon any sidewalk.

8-2.11 DEFACING.

It shall be unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

8-2.12 DEBRIS ON SIDEWALKS.

It shall be unlawful for a person to throw or deposit on any sidewalk any glass bottle, glass, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any other substance likely to injure any person, animal or vehicle.

(Code of Iowa, 1975, Sec. 364.12 [2])

8-2.13 MERCHANDISE DISPLAY.

It shall be unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than two (2) feet of the sidewalk next to the building be occupied for such purposes.

8-2.14 SALES STANDS.

It shall be unlawful for a person to erect or keep any stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the clerk.

CHAPTER 3 - RAILROAD REGULATIONS

ARTICLE 1
RAILROAD REGULATIONS

8-3.0101 DEFINITIONS.

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

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

(Code of Iowa, 1975, Sec. 321.1 [29])

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

8-3.0102 WARNING SIGNALS.

Operators shall sound a bell at least sixty (60) rods before a street crossing is reached and shall ring the bell continuously until the crossing is passed. Operators also shall sound a whistle at least one hundred (100) feet before reaching every intersection of the track and street, sidewalk, alley or similar public crossing within the city limits, unless such crossing is protected by a mechanical warning device or flagman as required under Section 8-4.03.

(Code of Iowa, 1975, Sec. 478.19)

8-3.0103 STREET CROSSING SIGNS.

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

(Code of Iowa, 1975, Sec. 364.10)

8-3.0104 OBSTRUCTING STREETS.

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

8-3.0105 CROSSING MAINTENANCE.

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

(Bourett v. Chicago and N.W. Ry. 152 Iowa 579, 132 N.W. 973 [1943], Code of Iowa, 1975, Sec. 364.11)

8-3.0106 FLYING SWITCHES.

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

8-3.0107 SPEED.

It shall be unlawful to operate any railroad train through any street crossing within the platted areas of the city at a speed greater than 25 miles per hour.

(See *Girl v. United States R. Admin.*, 194 Iowa 1382, 189 N. W. 834, [1923])

ARTICLE 2
EASEMENT FOR FIRST TRACK

8-3.0201 EASEMENT GRANTED.

The right is hereby granted by the town of Buffalo to The Chicago Rock Island and Pacific Railway Company to lay down on the river bank in the town of Buffalo, from the eastern boundary to the western boundary of said town, a single track of its said road, with the necessary switches and side tracks to such warehouses, mills and manufacturers as the said railway company may desire to reach, when the owners have previously obtained the consent of the council to the use of such facilities, and to occupy so much of Front Street or the River Road in said town as may be necessary for the construction and maintenance of said track, on the conditions and terms hereinafter specified.

8-3.0202 LOCATION OF TRACK.

The said Railway Company is to so construct its said single track, as that there shall be a space of not less than about forty (40) feet between the north rail of said track and the north line of said Front Street. And in order to more definitely and certainly locate the said track, stakes have been placed by said Railway Company

along its proposed line through the entire length of Front Street or the River Road, included in the corporate limits of Buffalo, and the location of the center line of said railroad track on Front Street shall be at least ten (10) feet south of the line of said stakes and said location is hereby approved by the council, and said Railway Company is authorized to construct its track on said lines.

8-3.0203 GRADE OF TRACK.

Said Railway shall be so constructed in Front Street, as that, the road bed shall be substantially at the grade of the street; and natural depressions in Front Street, north of the north rail of the track, shall be filled in by said Railway Company, at its own expense, so as to make the surface of the street north of the line of railroad substantially level with the road bed.

8-3.0204 MAINTENANCE OF CROSSINGS.

Said Railway Company shall immediately upon the construction of its road bed through said Front Street or along said River bank, construct and thereafter maintain crossings and convenient passage ways to the river for teams at the points where Clark Street, Washington Street, Main Street, Jefferson Street and Hecker Street, if extended would intersect said railway track.

ARTICLE 3
RAILROAD EASEMENT FOR SECOND TRACK

8-3.0301 EASEMENT GRANTED.

That there is hereby granted to The Chicago, Rock Island and Pacific Railway Company, its successors and assigns the right to construct and forever to maintain and operate an additional or second track substantially parallel with, and adjacent to, and south of the present main track of said Railway Company on the River Bank on Front Street in the Town of Buffalo from the Eastern Boundary to the Western Boundary of said town.

8-3.0302 CONDITIONS OF GRANT.

The right granted in the foregoing section of this ordinance is upon the following conditions:

1. Levee. That said Railway Company shall build and forever maintain a levee in front of Block One (1) between Jefferson and Main Streets, two hundred and sixty feet (260) in width, with a grade of one (1) foot fall in ten (10) feet, beginning from a point twenty (20) feet south from the center of the south track, said point of beginning shall be on a level with the top of the ties.

Said grade of one (1) foot fall in ten (10) feet, shall be continued south into the Mississippi River until said grade strikes the bed of said River; said Railway Company shall put and forever maintain on said levee, a top dressing of macadam to the depth of four (4) inches; said Railroad Company shall keep two (2) thirty (30) foot crossings over its tracks at said levee.

2. Completion Date. That said Railway Company shall have the levee completed on or before the 1st day of March 1902.

3. Factory Moved. That said Railway Company shall move, at its own cost a convenient distance towards the River, the Button factory, which by permission of the council of said Town is at present located on the north end of said levee.

4. Crossings Maintained. That said Railroad Company shall replace, rebuild, and forever maintain in substantially the same manner and location as at present, the crossing and approaches referred to in Section two (2) of the ordinance of the Town Council of the Town of Buffalo passed May seventh (7th) 1900.

5. Front Street. That whenever said Railway Company shall straighten its present track in the Town of Buffalo, Iowa, by removing the curve therein, it will at its own cost and expense, grade that portion of Front Street in the vicinity of said curve that the same can be used by wagons and teams.

6. Dodge Street Crossing. That said Railway Company shall maintain on Dodge Street and south of its tracks a good and substantial crossing, with a grade not exceeding one (1) foot fall in ten (10) feet.

7. Track Elevations. That said Railway Company shall not elevate its tracks any higher than the present location of the North track.

8-3.0303 ACCEPTANCE.

The Chicago Rock Island & Pacific Railway Company shall within thirty (30) days from the passage and approval of this ordinance file with the Town Clerk of the Town of Buffalo, Iowa, its acceptance in writing of the terms and conditions of this ordinance, and upon filing of such acceptance within said time, this ordinance shall take effect and not otherwise.

ARTICLE 4
PERMANENT GRADE STAKES ESTABLISHED

8-3.0401 ROAD BED ESTABLISHED.

The road bed of the Chicago, Rock Island and Pacific Railway Co. is permanently established as follows:

1. Clark and Front Streets. One steel T rail set at the intersection of Clark and Front Streets opposite or directly in line of a point beginning at the point of the south west corner of Lot 1, Block 2, Clark B. Dodge Addition, from there eight (8) feet south. Said stake is covered with about seven inches of rail from the surface of said Front Street and the top of said T rail is six and five-eighths (6-5/8) inches below the level of the top of the level of the ties of the Chicago, Rock Island and Pacific Railway Company.

2. Hecker and Front Streets. One steel rail set at the intersection of Hecker and Front Streets opposite or directly in line of a point beginning at the point of the south east corner of Lot 6, Block 2 of Hecker and Kantz Addition from thence eight (8) feet south. Said stake is covered with about six (6) inches of rail from the surface of said Front Street and the top of said T rail is one and five-eighths (1-5/8) inches below the level of the top of the ties of the Chicago, Rock Island and Pacific Railway Company.

8.3.0402 AUTHORITY TO SET STAKES.

Said stakes or T rails covered by this article are set in compliance with the acceptance of an ordinance by the Chicago, Rock Island and Pacific Railway Company entitled "An Ordinance Granting To The Chicago, Rock Island and Pacific Railway Company. The right to construct, maintain and Operate An Additional or Second Track On The River Bank on Front Street Through The Town of Buffalo, Scott County, Iowa", of which ordinance Section Seven (7) thereof provides for the location of said railway tracks.

NOTE

Original Ordinance entitled "The Permanent Location of Grade Stakes Set By The Town Council of The Town of Buffalo to Keep in Conjunction with The Height of The Chicago, Rock Island and Pacific Railway Company" was passed and avowed June 2, 1902.

ARTICLE 5

CHANGE IN GRADE OF TRACK PERMITTED

8-3.0501 PERMISSION TO ELEVATE TRACKS GRANTED.

There is hereby granted to the Chicago, Rock Island and Pacific Railway Company, its successors and assigns, the right to elevate the tracks of said railway company on the river bank on Front Street in the city from the eastern to the western boundary of said city.

8-3.0502 CONDITIONS IMPOSED.

The right to elevate tracks is granted upon the following conditions:

1. Grade Established. The said Railway Company shall be permitted and allowed the privilege and right to elevate its railway tracks by ballasting and surfacing the same to a height as follows: Beginning at the elevation of the C.R.I & P. Railway Company bench marks, from United States Government "Cairo Datum" at station no. 10150 the elevation of said tracks shall be 581.45, at station no. 10155 the elevation shall be 580.93; at station no. 10165 the elevation of said tracks shall be 580.42; at station no. 10170 the elevation of said tracks shall be 580.16; at

station no. 10174 the elevation of said railway tracks shall be 580.19. Said elevations are evidenced by two iron posts, the first is located at the corner of Hecker and Front Streets and its elevation is established at 578.78; and the second iron post is stationed at the corner of Clark and Front Streets and its elevation is 579.72.

2. Steps Required. The said railway company shall build and construct two (2) flights of steps in each block leading down from the south railway track to the surface of the ground in order that the people may pass to and from the river over said railway tracks as they may be maintained for the passage of trains. Said steps shall be four (4) feet wide or more and the rise not to exceed eight (8) inches and shall be built in a workmanlike manner and be forever kept and maintained by the said railway company at its own expense. The location of said steps shall be at such points as shall be designated by the city council.

3. Drainage Ditch. The said railway company shall maintain and keep open a ditch upon the north side of said railway tracks sufficient in width to allow the surface water to escape from Front Street under the railway tracks to the river.

4. Crossing Required. The said railway company in elevating its tracks along the levee in front of Block One (1) in the Original Town of Buffalo shall make and maintain a good and practicable crossing over its tracks from Front Street to the levee.

NOTE

Original Ordinance entitled "An Ordinance Granting To The Chicago, Rock Island and Pacific Railway Company, The Right and Privilege To Elevate Its Tracks On The River Bank On Front Street Through The Town of Buffalo, Scott County, Iowa" was passed and approved August 3, 1903 and amended by an original ordinance passed and approved December 5, 1927.

TITLE IX - TAX EXEMPTION

CHAPTER 1 - INDUSTRIAL CONSTRUCTION TAX EXEMPTION

9-1.01 PURPOSE.

The city council, by this chapter, provides for a partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section four hundred twenty-seven A point one (427A.1), subsection one (1), paragraph e, of the Iowa Code.

(Ord. 207, Sec. 2, 1982)

9-1.02 TIME LIMITATIONS.

Under this chapter the partial exemption from taxation as provided in Section 9-1.01 shall be available for a period of five years.

(Ord. 207, Sec. 3, 1982)

9-1.03 DEFINITIONS.

1. "New construction" means new buildings and structures and includes new buildings and structures which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products, and the reconstruction is required for the owner of the building or structure to continue to competitively manufacture or process those products which determination shall receive prior approval from the city council upon the recommendation of the Iowa development commission. The exemption shall also apply to new machinery and equipment assessed as real estate pursuant to section four hundred twenty-seven A point 1(427A.1), subsection one (1), paragraph e, of the Iowa Code unless the machinery or equipment is part of the normal replacement or op-

erating process to maintain or expand the existing operation statutes.

2. "Director of revenue" means the director of the Iowa State Department of Revenue.

3. "Actual value added" as used in this chapter means the actual value added as the first year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value as determined by the assessor as of January first of each year for which the exemption is received.

(Ord. 207, Sec. 4, 1982)

9-1.04 EXEMPTION SCHEDULE.

The amount of actual value added which is eligible to be exempt from taxation shall be as follows:

1. For the first year, seventy-five percent (75%);
2. For the second year, sixty percent (60%);
3. For the third year, forty-five percent (45%);
4. For the fourth year, thirty percent (30%);
5. For the fifth year, fifteen percent (15%).

The granting of the exemption under this section for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

(Ord. 207, Sec. 5, 1982)

9-1.05 PROCEDURE.

An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the local assessor by February first of the assessment year in which the value added is first assessed for taxation. Applications for exemption shall be made on forms prescribed by the director

of revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the director of revenue.

A person may submit a proposal to the city council to receive prior approval for eligibility for a tax exemption on new construction. The city council, by ordinance, may give its prior approval of a tax exemption for new construction if the new construction is in conformance with the zoning plans for the city. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the city council to approve or reject.

(Ord. 207, Sec. 6, 1982)

9-1.06 EXEMPTIONS MAY BE REPEALED.

When in the opinion of the city council continuation of the exemption granted by this chapter ceases to be of benefit to the city, the city council may repeal this chapter but all existing exemptions shall continue until their expiration.

(Ord. 207, Sec. 7, 1982)

9-1.07 DUAL EXEMPTIONS PROHIBITED.

A property tax exemption under this chapter shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

(Ord. 207, Sec. 8, 1982)

9-1.08 EXEMPTION NOT RETROACTIVE.

This chapter shall not apply to any industrial construction commenced prior to the effective date of the ordinance, nor shall it apply to any industrial construction for which a building permit has been issued on the effective date of the ordinance codified in this chapter. This chapter shall not apply to new machinery and equipment that is otherwise eligible for the exemption granted herein which was ordered or purchased prior to the effective date of this chapter. The effective date of the ordinance codified in this chapter is February 16, 1982.

(Ord. 207, Sec. 9, 1982)

9-1.09 SEVERABILITY.

If any of the provisions of this chapter are for any reason illegal or void, then the lawful provisions of this chapter, which are separable from said unlawful provisions, shall be and remain in full force and effect, the same as if the chapter contained no illegal or void provisions.

(Ord. 207, Sec. 10, 1982)

CITY CODE OF BUFFALO

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