CHAPTER 1

CODE OF ORDINANCES

1.01 Title
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1.01 TITLE. This code of ordinances shall be known and may be cited as the Code of Ordinances of the City of De Soto, Iowa.

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

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

2. "City" means the City of De Soto, Iowa.

3. "Clerk" means the city clerk of De Soto, Iowa.

4. "Code" means the specific chapter of this Code of Ordinances in which a specific subject is covered and bears a descriptive title word (such as the Building Code and/or a standard code adopted by reference).

5. "Code of Ordinances" means the Code of Ordinances of the City of De Soto, Iowa.

6. "Council" means the city council of De Soto, Iowa.

7. "County" means Dallas County, Iowa.

8. "May" confers a power.

9. "Measure" means an ordinance, amendment, resolution or motion.

10. "Must" states a requirement.

11. "Occupant" or "tenant," applied to a building or land, includes any person who occupies the whole or a part of such building or land, whether alone or with others.

12. "Ordinances" means the ordinances of the City of De Soto, Iowa, as embodied in this Code of Ordinances, ordinances not repealed by the ordinance adopting this Code of Ordinances, and those enacted hereafter.

13. "Person" means an individual, firm, partnership, domestic or foreign corporation, company, association or joint stock association, trust or other legal entity,

and includes a trustee, receiver, assignee, or similar representative thereof, but does not include a governmental body.

14. "Public way" includes any street, alley, boulevard, parkway, highway, sidewalk, or other public thoroughfare.

15. "Shall" imposes a duty.

16. "Sidewalk" means that surfaced portion of the street between the edge of the traveled way, surfacing, or curb line and the adjacent property line, intended for the use of pedestrians.

17. "State" means the State of Iowa.

18. "Statutes" or "laws" means the latest edition of the *Code of Iowa*, as amended.

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

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

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

(Code of Iowa, Sec. 364.1)

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

1.05 PERSONAL INJURIES. When action is brought against the City for personal injuries alleged to have been caused by its negligence, the City may notify in writing any person by whose negligence it claims the injury was caused. The notice shall state the pendency of the action, the name of the plaintiff, the name and location of the court where the action is pending, a brief statement of the alleged facts from which the cause arose, that the City believes that the person notified is liable to it for any judgment rendered against the City, and asking the person to appear and defend. A judgment obtained in the suit is conclusive in

any action by the City against any person so notified, as to the existence of the defect or other cause of the injury or damage, as to the liability of the City to the plaintiff in the first named action, and as to the amount of the damage or injury. The City may maintain an action against the person notified to recover the amount of the judgment together with all the expenses incurred by the City in the suit.

(Code of Iowa, Sec. 364.14)

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

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

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

(Code of Iowa, Sec. 380.2)

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

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

(Code of Iowa, Sec. 718.5)

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

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

1.13 GENERAL STANDARDS FOR ACTION. Whenever this Code of Ordinances grants any discretionary power to the Council or any commission, board or officer or

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

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

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

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CHAPTER 2

CHARTER

2.01 Title
2.02 Form of Government
2.03 Powers and Duties
2.04 Number and Term of Council
2.05 Term of Mayor
2.06 Copies on File

2.01 TITLE. This chapter may be cited as the charter of the City of De Soto, Iowa.[†]

2.02 FORM OF GOVERNMENT. The form of government of the City is the Mayor-Council form of government.

(Code of Iowa, Sec. 372.4)

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

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

(Code of Iowa, Sec. 376.2)

2.05 TERM OF MAYOR. The Mayor is elected for a term of four (4) years.

(Code of Iowa, Sec. 376.2)

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

(Code of Iowa, Sec. 372.1)

[†] **EDITOR'S NOTE**: Ordinance No. 81 adopting a charter for the City was passed and approved by the Council in 1975.

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CHAPTER 3

MUNICIPAL INFRACTIONS

3.01 Municipal Infraction
3.02 Environmental Violation
3.03 Penalties
3.04 Civil Citations
3.05 Alternative Relief
3.06 Criminal Penalties

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

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

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

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

1. A violation arising from noncompliance with a pretreatment standard or requirement referred to in 40 C.F.R. §403.8.

2. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person not engaged in the industrial production or manufacturing of grain products.

3. The discharge of airborne residue from grain, created by the handling, drying or storing of grain, by a person engaged in such industrial production or manufacturing if such discharge occurs from September 15 to January 15.

3.03 PENALTIES. A municipal infraction is punishable by the following civil penalties:

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

1. Standard Civil Penalties.

   A. First offense – not to exceed $750.00

   B. Each repeat offense – not to exceed $1,000.00

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

2. Special Civil Penalties.

   A. A municipal infraction arising from noncompliance with a pretreatment standard or requirement, referred to in 40 C.F.R. §403.8, by an industrial user is punishable by a penalty of not more than $1,000.00 for each day a violation exists or continues.

B. A municipal infraction classified as an environmental violation is punishable by a penalty of not more than $1,000.00 for each occurrence. However, an environmental violation is not subject to such penalty if all of the following conditions are satisfied:

(1) The violation results solely from conducting an initial startup, cleaning, repairing, performing scheduled maintenance, testing, or conducting a shutdown of either equipment causing the violation or the equipment designed to reduce or eliminate the violation.

(2) The City is notified of the violation within twenty-four (24) hours from the time that the violation begins.

(3) The violation does not continue in existence for more than eight (8) hours.

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

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

1. The name and address of the defendant.

2. The name or description of the infraction attested to by the officer issuing the citation.

3. The location and time of the infraction.

4. The amount of civil penalty to be assessed or the alternative relief sought, or both.

5. The manner, location, and time in which the penalty may be paid.

6. The time and place of court appearance.

7. The penalty for failure to appear in court.

8. The legal description of the affected real property if the citation charges a violation relating to the condition of the property, including a building code violation, a local housing regulation violation, a housing code violation or a public health or safety violation. If the citation affects real property, the City shall first file the citation with the Clerk of Court and then also file the citation in the office of the County Treasurer. ***(Ord. 293 – Nov. 10 Supp.)***

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

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

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

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

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CHAPTER 5

OPERATING PROCEDURES

5.01 Oaths
5.02 Bonds
5.03 Duties: General
5.04 Books and Records
5.05 Transfer to Successor
5.06 Meetings
5.07 Conflict of Interest
5.08 Resignations
5.09 Removal of Appointed Officers and Employees
5.10 Vacancies
5.11 Gifts

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

1. 1. Qualify for Office. Each elected or appointed officer shall qualify for office by taking the prescribed oath and by giving, when required, a bond. The oath shall be taken, and bond provided, after such officer is certified as elected, no later than noon of the first day which is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected.

(Code of Iowa, Sec. 63.1)

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

(Code of Iowa, Sec. 63.10)

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

A. Mayor

B. City Clerk

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

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

5.02 BONDS. Surety bonds are provided in accordance with the following:

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

(Code of Iowa, Sec. 64.13)

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

(Code of Iowa, Sec. 64.19)

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 21.4)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.3)

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

(Code of Iowa, Sec. 21.5)

5. Cameras and Recorders. The public may use cameras or recording devices at any open session.

(Code of Iowa, Sec. 21.7)

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

(Code of Iowa, Sec. 21.8)

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

(Code of Iowa, Sec. 362.5)

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

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

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

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

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

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

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

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

5. Newspaper. The designation of an official newspaper.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 372.15)

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

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

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

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

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

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

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

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

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CHAPTER 6

CITY ELECTIONS

6.01 Nominating Method to be Used
6.02 Nominations by Petition
6.03 Adding Name by Petition
6.04 Preparation of Petition and Affidavit
6.05 Filing, Presumption, Withdrawals, Objections
6.06 Persons Elected

6.01 NOMINATING METHOD TO BE USED. All candidates for elective municipal offices shall be nominated under the provisions of Chapter 45 of the Code of Iowa.

(Code of Iowa, Sec. 376.3)

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

(Code of Iowa, Sec. 45.1)

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

(Code of Iowa, Sec. 45.2)

6.04 PREPARATION OF PETITION AND AFFIDAVIT. Nomination papers shall include a petition and an affidavit of candidacy. The petition and affidavit shall be substantially in the form prescribed by the State Commissioner of Elections, shall include information required by the *Code of Iowa*, and shall be signed in accordance with the *Code of Iowa*.

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

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

(Code of Iowa, Sec. 45.4)

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

(Code of Iowa, Sec. 376.8[3])

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CHAPTER 7

FISCAL MANAGEMENT

7.01 Purpose
7.02 Finance Officer
7.03 Cash Control
7.04 Fund Control
7.05 Operating Budget Preparation
7.06 Budget Amendments
7.07 Accounting
7.08 Financial Reports

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

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

7.03 CASH CONTROL. To assure the proper accounting and safe custody of moneys the following shall apply:

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

2. Deposits and Investments. All moneys belonging to the City shall be promptly deposited in depositories selected by the Council in amounts not exceeding the authorized depository limitation established by the Council or invested in accordance with the City's written investment policy and State law, including joint investments as authorized by Section 384.21 of the Code of Iowa.

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

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

7.04 FUND CONTROL. There shall be established and maintained separate and distinct funds in accordance with the following:

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

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

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

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

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

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

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

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

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

A. The amount of the expense of disbursements for operating and maintaining the utility or enterprise for the preceding three (3) months, and

B. The amount necessary to make all required transfers to restricted accounts for the succeeding three (3) months.

(IAC, 545-2.5[384,388], Sec. 2.5[5])

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

7.05 OPERATING BUDGET PREPARATION. The annual operating budget of the City shall be prepared in accordance with the following:

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.

2. Boards and Commissions. All boards, commissions and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.

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

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

5. Notice of Hearing. Upon adopting a proposed budget the Council shall set a date for public hearing thereon to be held before March 15 and cause notice of such hearing and a summary of the proposed budget to be published not less than ten (10)

nor more than twenty (20) days before the date established for the hearing. Proof of such publication must be filed with the County Auditor.

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

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

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

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

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

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

(Code of Iowa, Sec. 384.18)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.08 FINANCIAL REPORTS. The finance officer shall prepare and file the following financial reports:

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

2. Annual Report. Not later than December 1 of each year there shall be published an annual report containing a summary for the preceding fiscal year of all collections and receipts, all accounts due the City, and all expenditures, the current public debt of the City, and the legal debt limit of the City for the current fiscal year. A copy of the annual report must be filed with the Auditor of State not later than December 1 of each year.

(Code of Iowa, Sec. 384.22)

CHAPTER 8

URBAN RENEWAL

EDITOR'S NOTE		
The following ordinances not codified herein, and specifically saved from repeal, have been adopted with regard to Urban Renewal Areas in the City and remain in full force and effect.		
ORDINANCE NO.	**ADOPTED**	**PURPOSE**
207	July 12, 1994	Establishing De Soto Urban Renewal Area
218	June 10, 1997	Amendment No 1 to De Soto Urban Renewal Area
221	February 10, 1998	Amendment No 2 to De Soto Urban Renewal Area
222	February 10, 1998	Amendment No 3 to De Soto Urban Renewal Area
264	April 12, 2005	Amending Project Areas to Include Additional Territory
315	November 28, 2016	Amendment No. 6 to De Soto Urban Renewal Area
316	November 28, 2016	Establishing 2016 Urban Renewal Area
336	November 20, 2018	Amendment No. 1 to 2016 Urban Renewal Plan

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CHAPTER 9

LOCAL OPTION SALES AND SERVICES TAX

9.01 Local Option Sales and Services Tax **9.02 Allocation of Revenues**

9.01 LOCAL OPTION SALES AND SERVICES TAX. A tax at the rate of one percent (1%) shall be imposed in conformance with Chapter 423B of the *Code of Iowa* upon local sales and services within the City of De Soto.

9.02 ALLOCATION OF REVENUES. The revenues from the local sales and services tax are to be allocated in the City of De Soto as follows:

1. Ten percent (10%) is to be allocated for public safety.

2. Ninety percent (90%) is to be allocated for streets, infrastructure and capital expenditures.

(Ch. 9 – Ord. 327 – Jul. 18 Supp.)

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CHAPTER 15

MAYOR

15.01 Term of Office
15.02 Powers and Duties
15.03 Appointments
15.04 Compensation
15.05 Voting

15.01 TERM OF OFFICE. The Mayor is elected for a term of four (4) years.
(Code of Iowa, Sec. 376.2)

15.02 POWERS AND DUTIES. The powers and duties of the Mayor are as follows:

1. Chief Executive Officer. Act as the chief executive officer of the City and presiding officer of the Council, supervise all departments of the City, give direction to department heads concerning the functions of the departments, and have the power to examine all functions of the municipal departments, their records and to call for special reports from department heads at any time.
(Code of Iowa, Sec. 372.14[1])

2. Proclamation of Emergency. Have authority to take command of the police and govern the City by proclamation, upon making a determination that a time of emergency or public danger exists. Within the City limits, the Mayor has all the powers conferred upon the Sheriff to suppress disorders.
(Code of Iowa, Sec. 372.14[2])

3. Special Meetings. Call special meetings of the Council when the Mayor deems such meetings necessary to the interests of the City.
(Code of Iowa, Sec. 372.14[1])

4. Mayor's Veto. Sign, veto or take no action on an ordinance, amendment or resolution passed by the Council. The Mayor may veto an ordinance, amendment or resolution within fourteen days after passage. The Mayor shall explain the reasons for the veto in a written message to the Council at the time of the veto.
(Code of Iowa, Sec. 380.5 & 380.6[2])

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

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

7. Contracts. Whenever authorized by the Council, sign contracts on behalf of the City.

8. Professional Services. Upon order of the Council, secure for the City such specialized and professional services not already available to the City. In executing the order of the Council, the Mayor shall act in accordance with the Code of Ordinances and the laws of the State.

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

10. Nuisances. Issue written order for removal, at public expense, any nuisance for which no person can be found responsible and liable.

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

15.03 APPOINTMENTS. The Mayor shall appoint the following officials:
(Code of Iowa, Sec. 372.4)

1. Mayor Pro Tem
2. City Attorney
3. Library Board of Trustees
4. Police Chief

15.04 COMPENSATION. The salary of the Mayor is one thousand dollars ($1,000.00) per year, payable in two equal semi-annual payments. The Mayor shall also additionally receive fifty dollars ($50.00) per Council meeting attended. ***(Ord. 294 – Mar. 11 Supp.)***
(Code of Iowa, Sec. 372.13[8])

15.05 VOTING. The Mayor is not a member of the Council and shall not vote as a member of the Council.
(Code of Iowa, Sec. 372.4)

CHAPTER 16

MAYOR PRO TEM

16.01 Vice President of Council
16.02 Powers and Duties
16.03 Voting Rights
16.04 Compensation

16.01 VICE PRESIDENT OF COUNCIL. The Mayor shall appoint a member of the Council as Mayor Pro Tem, who shall serve as vice president of the Council.

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

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

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

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

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

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

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

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CHAPTER 17

COUNCIL

17.01 Number and Term of Council
17.02 Powers and Duties
17.03 Exercise of Power
17.04 Council Meetings
17.05 Appointments
17.06 Compensation

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

(Code of Iowa, Sec. 372.4 & 376.2)

17.02 POWERS AND DUTIES. The powers and duties of the Council include, but are not limited to the following:

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 26.10)

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

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

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

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

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

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

1. Action by Council. Passage of an ordinance, amendment, or resolution requires a majority vote of all of the members of the Council. Passage of a motion requires a majority vote of a quorum of the Council. A resolution must be passed to spend public funds in excess of one hundred thousand dollars ($100,000.00) on a public improvement project, or to accept public improvements and facilities upon their completion. Each Council member's vote on a measure must be recorded. A measure which fails to receive sufficient votes for passage shall be considered defeated.

(Code of Iowa, Sec. 380.4)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 380.4)

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

1. Regular Meetings. The regular meetings of the Council are on the third Tuesday of each month at 7:00 p.m. in Council Chambers at City Hall. If such day falls on a legal holiday, the meeting is held at a time determined by the Council.

2. Special Meetings. Special meetings shall be held upon call of the Mayor or upon the request of a majority of the members of the Council.
(Code of Iowa, Sec. 372.13[5])

3. Quorum. A majority of all Council members is a quorum.
(Code of Iowa, Sec. 372.13[1])

4. Rules of Procedure. The Council shall determine its own rules and maintain records of its proceedings.
(Code of Iowa, Sec. 372.13[5])

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

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

1. City Clerk
2. Planning and Zoning Commission
3. Zoning Board of Adjustment
4. Zoning Administrator

17.06 COMPENSATION. The salary of each Council member is thirty-five dollars ($35.00) for each meeting of the Council attended.
(Code of Iowa, Sec. 372.13[8])

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CHAPTER 18

CITY CLERK

18.01 Appointment and Compensation
18.02 Powers and Duties: General
18.03 Publication of Minutes
18.04 Recording Measures
18.05 Publication
18.06 Authentication
18.07 Certify Measures
18.08 Records
18.09 Attendance at Meetings
18.10 Issue Licenses and Permits
18.11 Notify Appointees
18.12 Elections
18.13 City Seal

18.01 APPOINTMENT AND COMPENSATION. The Council shall appoint by majority vote a City Clerk to serve at the discretion of the Council. The Clerk shall receive such compensation as established by resolution of the Council.

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

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

18.03 PUBLICATION OF MINUTES. Within fifteen (15) days following a regular or special meeting, the Clerk shall cause the minutes of the proceedings thereof to be published. Such publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims.

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

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

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

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

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

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

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

City Hall
Post Office
Casey's General Store

The Clerk is hereby directed to post promptly such ordinances and amendments, and to leave them so posted for not less than ten (10) days after the first date of posting. Unauthorized removal of the posted ordinance or amendment prior to the completion of the ten days shall not affect the validity of said ordinance or amendment. 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.

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

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

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

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

(Code of Iowa, Sec. 380.11)

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

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

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

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

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

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

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

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

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

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

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

18.09 ATTENDANCE AT MEETINGS. The Clerk shall attend all regular and special Council meetings and, at the direction of the Council, the Clerk shall attend meetings of committees, boards, and commissions. The Clerk shall record and preserve a correct record of the proceedings of such meetings.

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

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

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

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

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

18.12 ELECTIONS. The Clerk shall perform the duties relating to elections and nominations in accordance with Chapter 376 of the *Code of Iowa*.

18.13 CITY SEAL. The City seal is in the custody of the Clerk and shall be attached by the Clerk to all transcripts, orders, and certificates which it may be necessary or proper to authenticate.

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CHAPTER 19

CITY TREASURER

19.01 Appointment
19.02 Compensation
19.03 Duties of Treasurer

19.01 APPOINTMENT. The City Clerk is the Treasurer and performs all functions required of the position of Treasurer.

19.02 COMPENSATION. The Clerk receives no additional compensation for performing the duties of the Treasurer.

19.03 DUTIES OF TREASURER. The duties of the Treasurer are as follows:
(Code of Iowa, Sec. 372.13[4])

1. Custody of Funds. Be responsible for the safe custody of all funds of the City in the manner provided by law, and Council direction.

2. Record of Fund. Keep the record of each fund separate.

3. Record Receipts. Keep an accurate record of all money or securities received by the Treasurer on behalf of the City and specify the date, from whom, and for what purpose received.

4. Record Disbursements. Keep an accurate account of all disbursements, money or property, specifying date, to whom, and from what fund paid.

5. Special Assessments. Keep a separate account of all money received by the Treasurer from special assessments.

6. Deposit Funds. Upon receipt of moneys to be held in the Treasurer's custody and belonging to the City, deposit the same in depositories selected by the Council.

7. Reconciliation. Reconcile depository statements with the Treasurer's books and certify monthly to the Council the balance of cash and investments of each fund and amounts received and disbursed.

8. Debt Service. Keep a register of all bonds outstanding and record all payments of interest and principal.

9. Other Duties. Perform such other duties as specified by the Council by resolution or ordinance.

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CHAPTER 20

CITY ATTORNEY

20.01 Appointment and Compensation
20.02 Attorney for City
20.03 Power of Attorney
20.04 Ordinance Preparation
20.05 Review and Comment
20.06 Provide Legal Opinion
20.07 Attendance at Council Meetings
20.08 Prepare Documents

20.01 APPOINTMENT AND COMPENSATION. The Mayor shall appoint, subject to Council approval, a City Attorney to serve at the discretion of the Council. The City Attorney shall receive such compensation as established by resolution of the Council.

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

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

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

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

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

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

20.05 REVIEW AND COMMENT. The City Attorney shall, upon request, make a report to the Council giving an opinion on all contracts, documents, resolutions, or ordinances submitted to or coming under the City Attorney's notice.

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

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

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

20.07 ATTENDANCE AT COUNCIL MEETINGS. The City Attorney shall attend meetings of the Council at the request of the Mayor or Council.

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

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

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

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CHAPTER 21

LIBRARY BOARD OF TRUSTEES

21.01 Public Library
21.02 Library Trustees
21.03 Qualifications of Trustees
21.04 Organization of the Board
21.05 Powers and Duties
21.06 Contracting with Other Libraries
21.07 Nonresident Use
21.08 Expenditures
21.09 Annual Report
21.10 Injury to Books or Property
21.11 Theft
21.12 Notice Posted

21.01 PUBLIC LIBRARY. The public library for the City is known as the De Soto Public Library. It is referred to in this chapter as the Library.

21.02 LIBRARY TRUSTEES. The Board of Trustees of the Library, hereinafter referred to as the Board, consists of five (5) resident members. All members are to be appointed by the Mayor with the approval of the Council.

21.03 QUALIFICATIONS OF TRUSTEES. All members of the Board shall be bona fide citizens and residents of the City. Members shall be over the age of eighteen (18) years.

21.04 ORGANIZATION OF THE BOARD. The organization of the Board shall be as follows:

1. Term of Office. All appointments to the Board shall be for staggered terms of four (4) years, except to fill vacancies. Each term shall commence on January first.

2. Vacancies. The position of any Trustee shall be vacated if such member moves permanently from the City and shall be deemed vacated if such member is absent from six (6) consecutive regular meetings of the Board, except in the case of sickness or temporary absence from the City. Vacancies in the Board shall be filled in the same manner as an original appointment except that the new Trustee shall fill out the unexpired term for which the appointment is made.

3. Compensation. Trustees shall receive no compensation for their services.

21.05 POWERS AND DUTIES. The Board shall have and exercise the following powers and duties:

1. Officers. To meet and elect from its members a President, a Secretary, and such other officers as it deems necessary. The City Treasurer shall serve as Board Treasurer, but shall not be a member of the Board.

2. Physical Plant. To have charge, control and supervision of the Library, its appurtenances, fixtures and rooms containing the same.

3. Charge of Affairs. To direct and control all affairs of the Library.

4. Hiring of Personnel. To employ a librarian, and authorize the librarian to employ such assistants and employees as may be necessary for the proper management of the Library, and fix their compensation; provided, however, that prior to such employment, the compensation of the librarian, assistants and employees shall

have been fixed and approved by a majority of the members of the Board voting in favor thereof.

5. Removal of Personnel. To remove the librarian, by a two-thirds vote of the Board, and provide procedures for the removal of the assistants or employees for misdemeanor, incompetence or inattention to duty, subject however, to the provisions of Chapter 35C of the Code of Iowa.

6. Purchases. To select, or authorize the librarian to select, and make purchases of books, pamphlets, magazines, periodicals, papers, maps, journals, other Library materials, furniture, fixtures, stationery and supplies for the Library within budgetary limits set by the Board.

7. Use by Nonresidents. To authorize the use of the Library by nonresidents and to fix charges therefor unless a contract for free service exists.

8. Rules and Regulations. To make and adopt, amend, modify or repeal rules and regulations, not inconsistent with this Code of Ordinances and the law, for the care, use, government and management of the Library and the business of the Board, fixing and enforcing penalties for violations.

9. Expenditures. To have exclusive control of the expenditure of all funds allocated for Library purposes by the Council, and of all moneys available by gift or otherwise for the erection of Library buildings, and of all other moneys belonging to the Library including fines and rentals collected under the rules of the Board.

10. Gifts. To accept gifts of real property, personal property, or mixed property, and devises and bequests, including trust funds; to take the title to said property in the name of the Library; to execute deeds and bills of sale for the conveyance of said property; and to expend the funds received by them from such gifts, for the improvement of the Library.

11. Enforce the Performance of Conditions on Gifts. To enforce the performance of conditions on gifts, donations, devises and bequests accepted by the City by action against the Council.

(Code of Iowa, Ch. 661)

12. Record of Proceedings. To keep a record of its proceedings.

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

21.06 CONTRACTING WITH OTHER LIBRARIES. The Board has power to contract with other libraries in accordance with the following:

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 384.20 & 392.5)

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

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

(Code of Iowa, Sec. 716.1)

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

(Code of Iowa, Sec. 714.1)

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

1. Failure To Return. Failure to return Library materials for two (2) months or more after the date the person agreed to return the Library materials, or failure to return Library equipment for one (1) month or more after the date the person agreed to return the Library equipment, is evidence of intent to deprive the owner, provided a

reasonable attempt, including the mailing by restricted certified mail of notice that such material or equipment is overdue and criminal actions will be taken, has been made to reclaim the materials or equipment.

(Code of Iowa, Sec. 714.5)

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

(Code of Iowa, Sec. 808.12)

CHAPTER 22

PLANNING AND ZONING COMMISSION

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

22.01 PLANNING AND ZONING COMMISSION. The City Planning and Zoning Commission, hereinafter referred to as the Commission, consists of seven members appointed by the Council. The Commission members shall be residents of the City and shall not hold any elective office in the City government.

(Code of Iowa, Sec. 414.6 & 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

22.05 POWERS AND DUTIES. The Commission shall have and exercise the following powers and duties:

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 414.6)

4. Recommendations of Improvements. No statuary, memorial or work of art in a public place, and no public building, bridge, viaduct, street fixtures, public structure or appurtenances, shall be located or erected, or site therefor obtained, nor shall any

permit be issued by any department of the City for the erection or location thereof until and unless the design and proposed location of any such improvement shall have been submitted to the Commission and its recommendations thereon obtained, except such requirements and recommendations shall not act as a stay upon action for any such improvement when the Commission after thirty (30) days' written notice requesting such recommendations, shall have failed to file same.

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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

(Code of Iowa, Sec. 392.1)

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CHAPTER 30

POLICE DEPARTMENT

30.01 Department Established
30.02 Organization
30.03 Peace Officer Qualifications
30.04 Required Training
30.05 Compensation
30.06 Peace Officers Appointed
30.07 Police Chief: Duties
30.08 Departmental Rules
30.09 Summoning Aid
30.10 Taking Weapons
30.11 Contract Law Enforcement

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

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

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

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

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

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

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

30.06 PEACE OFFICERS APPOINTED. The Mayor shall appoint and dismiss the Police Chief subject to the consent of a majority of the Council. The Mayor shall select, subject to the approval of Council, the other members of the department.

(Code of Iowa, Sec. 372.4)

30.07 POLICE CHIEF: DUTIES. The Police Chief has the following powers and duties subject to the approval of the Council.

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

1. General. Perform all duties required of the police chief by law or ordinance.

2. Enforce Laws. Enforce all laws, ordinances and regulations and bring all persons committing any offense before the proper court.

3. Writs. Execute and return all writs and other processes directed to the Police Chief.

4. Accident Reports. Report all motor vehicle accidents investigated to the State Department of Transportation.

(Code of Iowa, Sec. 321.266)

5. Prisoners. Be responsible for the custody of prisoners, including conveyance to detention facilities as may be required.

6. Assist Officials. When requested, provide aid to other City officers, boards and commissions in the execution of their official duties.

7. Investigations. Provide for such investigation as may be necessary for the prosecution of any person alleged to have violated any law or ordinance.

8. Record of Arrests. Keep a record of all arrests made in the City by showing whether said arrests were made under provisions of State law or City ordinance, the offense charged, who made the arrest and the disposition of the charge.

9. Reports. Compile and submit to the Mayor and Council an annual report as well as such other reports as may be requested by the Mayor or Council.

10. Command. Be in command of all officers appointed for police work and be responsible for the care, maintenance and use of all vehicles, equipment and materials of the department.

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

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

(Code of Iowa, Sec. 804.17)

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

(Code of Iowa, Sec. 804.18)

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

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

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CHAPTER 31

RESERVE PEACE OFFICERS

31.01 Establishment of Force
31.02 Training
31.03 Status of Reserve Officers
31.04 Carrying Weapons
31.05 Supplementary Capacity
31.06 Supervision of Officers
31.07 No Reduction of Regular Force
31.08 Compensation
31.09 Benefits When Injured
31.10 Liability and False Arrest Insurance
31.11 No Participation in Pension Fund or Retirement System

31.01 ESTABLISHMENT OF FORCE. A force of reserve peace officers is hereby established. A reserve peace officer is a volunteer, non-regular, sworn member of the Police Department who will serve with or without compensation and has regular police powers while functioning as the Police Department's representative, and will participate on a regular basis in the agency's activities, including those of crime prevention and control, preservation of the peace and enforcement of the law.

31.02 TRAINING. Training for individuals appointed as reserve peace officers shall be provided by instructors in a community college or other facility, including a law enforcement agency, selected by the individual and approved by the law enforcement agency and the Iowa Law Enforcement Academy. All standards and training required under Chapter 80D of the Code of Iowa constitute the minimum standards for reserve peace officers. Upon satisfactory completion of training, the Iowa Law Enforcement Academy shall certify the individual as a reserve peace officer. There shall be no exemptions from the personal and training standards provided for in this chapter.

31.03 STATUS OF RESERVE OFFICERS. Reserve peace officers shall serve as peace officers on the orders and at the direction of the Police Chief. While in the actual performance of official duties, reserve peace officers shall be vested with the same rights, privileges, obligations and duties as any other peace officer.

31.04 CARRYING WEAPONS. A member of the reserve force shall not carry a weapon in the line of duty until he or she has been approved by the Council and certified by the Iowa Law Enforcement Academy Council. After approval and certification, a reserve peace officer may carry a weapon in the line of duty only when authorized by the Police Chief.

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

31.06 SUPERVISION OF OFFICERS. Reserve peace officers shall be subordinate to the Police Chief, shall not serve as peace officers unless under the direction of the Police Chief, and shall wear a uniform prescribed by the Police Chief, unless that superior officer designates alternate apparel for use when engaged in assignments involving special investigations, civil process, court duties, jail duties and the handling of mental patients. The reserve peace officer shall not wear an insignia of rank.

31.07 NO REDUCTION OF REGULAR FORCE. There shall be no reduction of the authorized size of the regular law enforcement department of the City because of the establishment or utilization of reserve peace officers.

31.08 COMPENSATION. While performing official duties, each reserve peace officer shall be considered an employee of the City and shall be paid a minimum of $1.00 per year. The Council may provide additional monetary assistance for the purchase and maintenance of uniforms and equipment used by reserve peace officers.

31.09 BENEFITS WHEN INJURED. Hospital and medical assistance and benefits, as provided in Chapter 85 of the Code of Iowa, shall be provided by the Council to members of the reserve force who sustain injury in the course of performing official duties.

31.10 LIABILITY AND FALSE ARREST INSURANCE. Liability and false arrest insurance shall be provided by the City to members of the reserve force while performing official duties in the same manner as for regular peace officers.

31.11 NO PARTICIPATION IN PENSION FUND OR RETIREMENT SYSTEM. This chapter shall not be construed to authorize or permit a reserve peace officer to become eligible for participation in a pension fund or retirement system created by the laws of the State and of which regular peace officers may become members.

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CHAPTER 35

FIRE DEPARTMENT

35.01 Establishment and Purpose
35.02 Organization
35.03 Approved by Council
35.04 Training
35.05 Compensation
35.06 Election of Officers
35.07 Fire Chief: Duties
35.08 Obedience to Fire Chief
35.09 Constitution
35.10 Accidental Injury Insurance
35.11 Liability Insurance
35.12 Calls Outside City
35.13 Mutual Aid
35.14 Authority to Cite Violations
35.15 Emergency Rescue Service
35.16 Purpose

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

(Code of Iowa, Sec. 364.16)

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

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

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

35.04 TRAINING. All members of the department shall meet the minimum training standards established by the State Fire Marshal and attend and actively participate in regular or special training drills or programs as directed by the Fire Chief.

(Code of Iowa, Sec. 100B.2[4])

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

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

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

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

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

1. Enforce Laws. Enforce ordinances and laws regulating fire prevention and the investigation of the cause, origin and circumstances of fires.

2. Technical Assistance. Upon request, give advice concerning private fire alarm systems, fire extinguishing equipment, fire escapes and exits and development of fire emergency plans.

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.2)

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

(Code of Iowa, Sec. 102.3)

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

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

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

(Code of Iowa, Sec. 100.2 & 100.3)

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

(Code of Iowa, Sec. 100.12)

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

(Code of Iowa, Sec. 100.13)

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

(Code of Iowa, Sec. 100.4)

12. Records. Cause to be kept records of the fire department personnel, firefighting equipment, depreciation of all equipment and apparatus, the number of responses to alarms, their cause and location, and an analysis of losses by value, type and location of buildings.

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

35.08 OBEDIENCE TO FIRE CHIEF. No person shall willfully fail or refuse to comply with any lawful order or direction of the Fire Chief.

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

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

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

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

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

35.12 CALLS OUTSIDE CITY. The department shall answer calls to fires and other emergencies outside the City limits if the Fire Chief determines that such emergency exists and that such action will not endanger persons and property within the City limits.

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

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

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

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

(Code of Iowa, Sec. 100.41)

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

35.16 PURPOSE. The purpose of this ordinance is to provide for collecting revenues for services rendered by the DeSoto Fire Department.

1. Billing for Services. After every service call, the Fire Chief shall prepare and deliver a statement for any fire, hazmat cleanup or similar service rendered by the DeSoto Fire Department as provided herein. For the purpose of this section, the person, business or entity responsible for the payment is the person, business or entity who owned the property benefited by the service call.

A. Billed to Whom. The statement for services rendered shall be sent to the person, business or entity responsible for payment.

B. Charges for Billing Purposes. Charges for services rendered by the DeSoto Fire Department shall take into account the following:

(1) Emergency apparatus actually used in the response;

(2) Stand by status of support vehicles;

(3) Manpower needed, and actually used in response;

(4) Specialized equipment or services, not locally available; categories below will be billable only in the event hazardous materials incidents or those involving more than 4 departments, or if the materials and supplies used are in excess of normal amounts;

(5) The uninsured portion of equipment damaged, contaminated, or destroyed, at the replacement cost;

(6) The replacement cost of disposable supplies, including but not limited to fuel, water, foam, absorbent materials, or any other cost incurred by the Fire Department in the response to the incident;

(7) Responder sustenance, including food, refreshment, lodging for prolonged incidents, or other human service needs incurred by the responding personnel.

Note: Service calls for investigation of smoke, or other calls where no services are actually provided, (unintentional false alarm) shall not be billed for the first response in a calendar year. After one false response, the Fire Chief may bill accordingly.

C. Billing Rates. In passing the ordinance codified in the section, the City acknowledges the passing of this ordinance which authorizes billing for fire services rendered in the DeSoto Fire District. Included in said ordinance are specific billing rates for services rendered in the seven categories listed in Subsection B above. In preparing the bill for services rendered as provided herein, the Fire Chief shall make his charges consistent with the rates established by the DeSoto City Council. The City will also bill for extrication services at the rate of $350.00 per vehicle for service calls that require the extrication of any driver or passenger. The Fire Chief may bill accordingly.

(1) Applicable rates for the DeSoto Fire Department fire billing.

(i) Category 1: Emergency response apparatus actually used in response: $250 per hr.

Example: Pumpers, tankers, equipment vehicles.

(ii) Category 2: Standby of support vehicles: $100 flat fee.

Example: Trucks responding but not used.

(iii) Category 3: Manpower needed and actually used in the response: $40.00 per man hr.

Example: Members in attendance but not used will not be billed for.

(2) Categories 4-6 below will be billable only in the event of hazardous material incidents or those involving more than 4 departments, or if the materials and supplies used are in excess of the normal amounts.

(i) Category 4: Specialized equipment or services not locally available: Actual cost

Example: County – or State equipment, contractors, etc. Hazmat teams, clean up or removal.

(ii) Category 5: Uninsured portion of equipment damaged: Replacement cost

Example: Turn-out gear, SCBA, protective equipment, vehicle pumps, generators, hoses, tires or other hardware.

(iii) Category 6: Disposables, other costs of response: Replacement cost

Example: Fuel, if more than the initial tank used, water in excess quantities, foam absorbent supplies, containment & decontamination, materials, other misc. supplies.

(iv) Category 7: Responder sustenance: Actual cost

Example: Food, drink, cooling, heating, shelter facilities, motel for prolonged incidents, transportation to and from scene of personnel used in rotation.

2. Penalty for Response During State Fire Marshall Ordered Burning Ban. All fees established under this ordinance shall be doubled in the event of fire responses to intentional or controlled burns or other fires, other than accidental, not pre-planned with the DeSoto Fire Chief.

(Section 35.16 – Ord. 322 – Jul. 18)

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CHAPTER 36

HAZARDOUS SUBSTANCE SPILLS

36.01 Purpose
36.02 Definitions
36.03 Cleanup Required
36.04 Liability for Cleanup Costs
36.05 Notifications
36.06 Police Authority
36.07 Liability

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

36.02 DEFINITIONS. For purposes of this chapter the following terms are defined:

1. "Cleanup" means actions necessary to contain, collect, control, identify, analyze, clean up, treat, disperse, remove or dispose of a hazardous substance.

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

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

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

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

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

4. "Responsible person" means a person who at any time produces, handles, stores, uses, transports, refines, or disposes of a hazardous substance, the release of which creates a hazardous condition, including bailees, carriers, and any other person in control of a hazardous substance when a hazardous condition occurs, whether the person owns the hazardous substance or is operating under a lease, contract, or other agreement with the legal owner of the hazardous substance.

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

36.03 CLEANUP REQUIRED. Whenever a hazardous condition is created by the deposit, injection, dumping, spilling, leaking or placing of a hazardous substance, so that the hazardous substance or a constituent of the hazardous substance may enter the environment or be emitted

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

36.04 LIABILITY FOR CLEANUP COSTS. The responsible person shall be strictly liable to the City for all of the following:

1. The reasonable cleanup costs incurred by the City or the agents of the City as a result of the failure of the responsible person to clean up a hazardous substance involved in a hazardous condition.

2. The reasonable costs incurred by the City or the agents of the City to evacuate people from the area threatened by a hazardous condition caused by the person.

3. The reasonable damages to the City for the injury to, destruction of, or loss of City property, including parks and roads, resulting from a hazardous condition caused by that person, including the costs of assessing the injury, destruction or loss.

4. The excessive and extraordinary cost incurred by the City or the agents of the City in responding at and to the scene of a hazardous condition caused by that person.

36.05 NOTIFICATIONS.

1. A person manufacturing, storing, handling, transporting, or disposing of a hazardous substance shall notify the State Department of Natural Resources and the Police Chief of the occurrence of a hazardous condition as soon as possible but not later than six (6) hours after the onset of the hazardous condition or discovery of the hazardous condition. The Police Chief shall immediately notify the Department of Natural Resources.

2. Any other person who discovers a hazardous condition shall notify the Police Chief, who shall then notify the Department of Natural Resources.

36.06 POLICE AUTHORITY. If the circumstances reasonably so require, the law enforcement officer or an authorized representative may:

1. Evacuate persons from their homes to areas away from the site of a hazardous condition, and

2. Establish perimeters or other boundaries at or near the site of a hazardous condition and limit access to cleanup personnel.

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

36.07 LIABILITY. The City shall not be liable to any person for claims of damages, injuries, or losses resulting from any hazardous condition, unless the City is the responsible person as defined in Section 36.02[4].

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CHAPTER 40

PUBLIC PEACE

40.01 Assault
40.02 Harassment
40.03 Disorderly Conduct
40.04 Unlawful Assembly
40.05 Failure to Disperse

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

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

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

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

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

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

(Code of Iowa, Sec. 708.1)

40.02 HARASSMENT. No person shall commit harassment.

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

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

(Code of Iowa, Sec. 708.7)

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

40.03 DISORDERLY CONDUCT. No person shall do any of the following:

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

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

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

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

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

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

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

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

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

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

6. Disrespect of Flag. Knowingly and publicly use the flag of the United States in such a manner as to show disrespect for the flag as a symbol of the United States, with the intent or reasonable expectation that such use will provoke or encourage another to commit trespass or assault. As used in this subsection:

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

A. "Deface" means to intentionally mar the external appearance.

B. "Defile" means to intentionally make physically unclean.

C. "Flag" means a piece of woven cloth or other material designed to be flown from a pole or mast.

D. "Mutilate" means to intentionally cut up or alter so as to make imperfect.

E. "Show disrespect" means to deface, defile, mutilate, or trample.

F. "Trample" means to intentionally tread upon or intentionally cause a machine, vehicle, or animal to tread upon.

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

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

8. Funeral or Memorial Service. Within 500 feet of the building or other location where a funeral or memorial service is being conducted, or within 500 feet of a funeral procession or burial:

A. Make loud and raucous noise which causes unreasonable distress to the persons attending the funeral or memorial service or participating in the funeral procession.

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

C. Disturb or disrupt the funeral, memorial service, funeral procession or burial by conduct intended to disturb or disrupt the funeral, memorial service, funeral procession or burial.

This subsection applies to conduct within 60 minutes preceding, during, and within 60 minutes after a funeral, memorial service, funeral procession, or burial.

(Code of Iowa, Sec. 723.5)

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

(Code of Iowa, Sec. 723.2)

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

(Code of Iowa, Sec. 723.3)

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CHAPTER 41

PUBLIC HEALTH AND SAFETY

41.01 Distributing Dangerous Substances
41.02 False Reports to or Communications with Public Safety Entities
41.03 Refusing to Assist Officer
41.04 Harassment of Public Officers and Employees
41.05 Interference with Official Acts
41.06 Abandoned or Unattended Refrigerators
41.07 Antenna and Radio Wires
41.08 Barbed Wire and Electric Fences
41.09 Discharging Weapons
41.10 Throwing and Shooting
41.11 Urinating and Defecating
41.12 Fireworks

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

(Code of Iowa, Sec. 727.1)

41.02 FALSE REPORTS TO OR COMMUNICATIONS WITH PUBLIC SAFETY ENTITIES. No person shall do any of the following:

(Code of Iowa, Sec. 718.6)

1. Report or cause to be reported false information to a fire department, a law enforcement authority or other public safety entity, knowing that the information is false, or report the alleged occurrence of a criminal act knowing the act did not occur.

2. Telephone an emergency 911 communications center, knowing that he or she is not reporting an emergency or otherwise needing emergency information or assistance.

3. Knowingly provide false information to a law enforcement officer who enters the information on a citation.

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

(Code of Iowa, Sec. 719.2)

41.04 HARASSMENT OF PUBLIC OFFICERS AND EMPLOYEES. No person shall willfully prevent or attempt to prevent any public officer or employee from performing the officer's or employee's duty.

(Code of Iowa, Sec. 718.4)

41.05 INTERFERENCE WITH OFFICIAL ACTS. No person shall knowingly resist or obstruct anyone known by the person to be a peace officer, emergency medical care provider or firefighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider or firefighter, or shall knowingly resist or obstruct the service or execution by any authorized person of any civil or criminal process or order of any court. The terms "resist" and

"obstruct" as used in this section do not include verbal harassment unless the verbal harassment is accompanied by a present ability and apparent intention to execute a verbal threat physically.

(Code of Iowa, Sec. 719.1)

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

(Code of Iowa, Sec. 727.3)

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

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

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

41.09 DISCHARGING WEAPONS.

1. It is unlawful for a person to discharge rifles, shotguns, revolvers, pistols, guns, or other firearms of any kind within the City limits except by written consent of the Council.

2. No person shall intentionally discharge a firearm in a reckless manner.

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

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

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

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

1. Definition. The term "fireworks" includes any explosive composition, or combination of explosive substances, or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation, and specifically includes blank cartridges, firecrackers, torpedoes, skyrockets, roman candles, or other fireworks of like construction and any fireworks containing any explosive or flammable compound, or other device containing any explosive substance.

(Code of Iowa, Sec. 727.2)

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

A. Personal Injury: - $250,000.00 per person.

B. Property Damage: - $50,000.00.

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

(Code of Iowa, Sec. 727.2)

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

(Code of Iowa, Sec. 727.2)

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CHAPTER 42

PUBLIC AND PRIVATE PROPERTY

42.01 Trespassing
42.02 Criminal Mischief
42.03 Defacing Proclamations or Notices
42.04 Unauthorized Entry
42.05 Fraud
42.06 Theft
42.07 Other Public Property Offenses

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

(Code of Iowa Sec. 716.7 and 716.8)

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

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

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

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

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

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

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

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

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

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

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

(Code of Iowa, Sec. 716.1)

42.03 DEFACING PROCLAMATIONS OR NOTICES. It is unlawful for a person intentionally to 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 the State, or any proclamation, advertisement or notification, set up at any place within the City by authority of the law or by order of any court, during the time for which the same is to remain set up.

(Code of Iowa, Sec. 716.1)

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

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

(Code of Iowa, Sec. 714.8)

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

(Code of Iowa, Sec. 714.1)

42.07 OTHER PUBLIC PROPERTY OFFENSES. The following chapters of this Code of Ordinances contain regulations prohibiting or restricting other activities or conditions which are also deemed to be public property offenses:

1. Chapter 21 – Library
   - A. Section 21.10 – Injury to Books or Property
   - B. Section 21.11 – Theft of Library Property
2. Chapter 105 – Solid Waste Control and Recycling
   - A. Section 105.07 – Littering Prohibited
   - B. Section 105.08 – Open Dumping Prohibited
3. Chapter 135 – Street Use and Maintenance
   - A. Section 135.01 – Removal of Warning Devices
   - B. Section 135.02 – Obstructing or Defacing
   - C. Section 135.03 – Placing Debris On
   - D. Section 135.04 – Playing In
   - E. Section 135.05 – Traveling on Barricaded Street or Alley
   - F. Section 135.08 – Burning Prohibited
   - G. Section 135.12 – Dumping of Snow
4. Chapter 136 – Sidewalk Regulations
   - A. Section 136.11 – Interference with Sidewalk Improvements
   - B. Section 136.14 – Fires or Fuel on Sidewalks
   - C. Section 136.15 – Defacing
   - D. Section 136.16 – Debris on Sidewalks

E. Section 136.17 – Merchandise Display

F. Section 136.18 – Sales Stands

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CHAPTER 43

DRUG PARAPHERNALIA

43.01 Purpose
43.02 Controlled Substance Defined
43.03 Drug Paraphernalia Defined
43.04 Determining Factors
43.05 Possession of Drug Paraphernalia
43.06 Manufacture, Delivery or Offering For Sale

43.01 PURPOSE. The purpose of this chapter is to prohibit the use, possession with intent to use, manufacture and delivery of drug paraphernalia as defined herein.

43.02 CONTROLLED SUBSTANCE DEFINED. The term "controlled substance" as used in this chapter is defined as the term "controlled substance" is defined in the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa, as it now exists or is hereafter amended.

43.03 DRUG PARAPHERNALIA DEFINED. The term "drug paraphernalia" as used in this chapter 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, concealing, containing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa. It includes, but is not limited to:

1. Growing Kits. 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.

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

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

4. Testing Equipment. Testing equipment used, intended for use, or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances.

5. Scales. Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

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

7. Separators - Sifters. 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.

8. Mixing Devices. Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances.

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

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

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

12. Ingesting-Inhaling Device. Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing heroin, marijuana, cocaine, hashish, or hashish oil into the human body, such as:

A. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;

B. Water pipes;

C. Carburetion tubes and devices;

D. Smoking and carburetion masks;

E. Roach clips, meaning objects used to hold burning materials, such as a marijuana cigarette that has become too small or too short to be held in the hand;

F. Miniature cocaine spoons and cocaine vials;

G. Chamber pipes;

H. Carburetor pipes;

I. Electric pipes;

J. Air driven pipes;

K. Chillums;

L. Bongs;

M. Ice pipes or chillers.

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

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

2. Prior Convictions. 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. Proximity To Violation. The proximity of the object, in time and space, to a direct violation of the Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

4. Proximity To Substances. The proximity of the object to controlled substances.

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

6. Evidence of Intent. Direct or circumstantial evidence of the intent of an owner or of anyone in control of the object, to deliver it to persons whom he or she knows, or should reasonably know, intend to use the object to facilitate a violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

7. Innocence of an Owner. The innocence of an owner, or of anyone in control of the object, as to a direct violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa, should not prevent a finding that the object is intended for use, or designed for use as drug paraphernalia.

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

9. Descriptive Materials. Descriptive materials accompanying the object which explain or depict its use.

10. Advertising. National and local advertising concerning its use.

11. Displayed. The manner in which the object is displayed for sale.

12. Licensed Distributor or Dealer. 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.

13. Sales Ratios. Direct or circumstantial evidence of the ratio of sales of the object(s) to the total sales of the business enterprise.

14. Legitimate Uses. The existence and scope of legitimate uses for the object in the community.

15. Expert Testimony. Expert testimony concerning its use.

43.05 POSSESSION OF DRUG PARAPHERNALIA. 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 Uniform Controlled Substance Act, Chapter 124 of the Code of Iowa.

43.06 MANUFACTURE, DELIVERY OR OFFERING FOR SALE. It is unlawful for any person to deliver, possess with intent to deliver, manufacture with intent to deliver, or offer for sale drug paraphernalia, intending that the drug paraphernalia will be used, or knowing, or under circumstances where one reasonably should know that it will be used, or knowing that it is designed for use to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, Chapter 124 of the Code of Iowa.

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CHAPTER 45

ALCOHOL CONSUMPTION AND INTOXICATION

45.01 Persons Under Legal Age
45.02 Public Consumption or Intoxication
45.03 Open Containers in Motor Vehicles

45.01 PERSONS UNDER LEGAL AGE. As used in this section, "legal age" means twenty-one (21) years of age or more.

1. A person or persons under legal age shall not purchase or attempt to purchase or individually or jointly have alcoholic liquor, wine or beer in their possession or control; except in the case of liquor, wine or beer given or dispensed to a person under legal age within a private home and with the knowledge, presence and consent of the parent or guardian, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal purposes and except to the extent that a person under legal age may handle alcoholic beverages, wine, and beer during the regular course of the person's employment by a liquor control licensee, or wine or beer permittee under State laws.

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

2. A person under legal age shall not misrepresent the person's age for the purpose of purchasing or attempting to purchase any alcoholic beverage, wine or beer from any licensee or permittee.

(Code of Iowa, Sec. 123.49[3])

45.02 PUBLIC CONSUMPTION OR INTOXICATION.

1. As used in this section unless the context otherwise requires:

A. "Arrest" means the same as defined in Section 804.5 of the Code of Iowa and includes taking into custody pursuant to Section 232.19 of the Code of Iowa.

B. "Chemical test" means a test of a person's blood, breath, or urine to determine the percentage of alcohol present by a qualified person using devices and methods approved by the Commissioner of Public Safety.

C. "Peace Officer" means the same as defined in Section 801.4 of the Code of Iowa.

D. "School" means a public or private school or that portion of a public or private school which provides teaching for any grade from kindergarten through grade twelve.

2. A person shall not use or consume alcoholic liquor, wine or beer upon the public streets or highways. A person shall not use or consume alcoholic liquor in any public place, except premises covered by a liquor control license. A person shall not possess or consume alcoholic liquors, wine or beer on public school property or while attending any public or private school-related function. A person shall not be intoxicated or simulate intoxication in a public place.

3. When a peace officer arrests a person on a charge of public intoxication under this section, the peace officer shall inform the person that the person may have a chemical test administered at the person's own expense. If a device approved by the Commissioner of Public Safety for testing a sample of a person's breath to determine the person's blood alcohol concentration is available, that is the only test that need be offered the person arrested. In a prosecution for public intoxication, evidence of the results of a chemical test performed under this subsection is admissible upon proof of a proper foundation. The percentage of alcohol present in a person's blood, breath, or urine established by the results of a chemical test performed within two hours after the person's arrest on a charge of public intoxication is presumed to be the percentage of alcohol present at the time of arrest.

(Code of Iowa, Sec. 123.46)

45.03 OPEN CONTAINERS IN MOTOR VEHICLES. *[See Section 62.01(47) and (48) of this Code of Ordinances.]*

CHAPTER 46

MINORS

46.01 Curfew
46.02 Cigarettes and Tobacco
46.03 Contributing to Delinquency
46.04 Minors in Liquor Establishments

46.01 CURFEW. The Council has determined that a curfew for minors is necessary to promote the public health, safety, morals and general welfare of the City and specifically to reinforce the primary authority and responsibility of adults responsible for minors; to protect the public from the illegal acts of minors committed after the curfew hour; and to protect minors from improper influences and criminal activity that prevail in public places after the curfew hour.

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

   A. "Emergency errand" means, but is not limited to, an errand relating to a fire, a natural disaster, an automobile accident or any other situation requiring immediate action to prevent serious illness, bodily injury or loss of life.

   B. "Knowingly" means knowledge which a responsible adult should reasonably be expected to have concerning the whereabouts of a minor in that responsible adult's custody. It is intended to continue to hold the neglectful or careless adult responsible for a minor to a reasonable standard of adult responsibility through an objective test. It is therefore no defense that an adult responsible for a minor was completely indifferent to the activities or conduct or whereabouts of the minor.

   C. "Minor" means any unemancipated person under the age of eighteen (18) years.

   D. "Nonsecured custody" means custody in an unlocked multipurpose area, such as a lobby, office or interrogation room which is not designed, set aside or used as a secure detention area, and the person arrested is not physically secured during the period of custody in the area; the person is physically accompanied by a law enforcement officer or a person employed by the facility where the person arrested is being held; and the use of the area is limited to providing nonsecured custody only while awaiting transfer to an appropriate juvenile facility or to court, for contacting of and release to the person's parents or other responsible adult or for other administrative purposes; but not for longer than six (6) hours without the oral or written order of a judge or magistrate authorizing the detention. A judge shall not extend the period of time in excess of six hours beyond the initial six-hour period.

   E. "Public place" includes stores, parking lots, parks, playgrounds, streets, alleys and sidewalks dedicated to public use; and also includes such parts of buildings and other premises whether publicly or privately owned which are used by the general public or to which the general public is invited commercially for a fee or otherwise; or in or on which the general public is permitted without specific invitation; or to which the general public has

access. For purposes of this section, a vehicle or other conveyance is considered to be a public place when in the areas defined above.

F. "Responsible adult" means a parent, guardian or other adult specifically authorized by law or authorized by a parent or guardian to have custody or control of a minor.

2. Curfew Established. It is unlawful for any minor to be or remain upon any of the alleys, streets or public places or to be in places of business and amusement in the City between the hours of 11:00 p.m. and 6:00 a.m. of the following day on days commencing on Sunday, Monday, Tuesday, Wednesday and Thursday and between the hours of 12:00 midnight and 6:00 a.m. on Friday and Saturday.

3. Exceptions. The following are exceptions to the curfew:

A. The minor is accompanied by a responsible adult.

B. The minor is on the sidewalk or property where the minor resides or on either side of the place where the minor resides and the adult responsible for the minor has given permission for the minor to be there.

C. The minor is present at or is traveling between home and one of the following:

(1) Minor's place of employment in a business, trade or occupation in which the minor is permitted by law to be engaged or, if traveling, within one hour after the end of work;

(2) Minor's place of religious activity or, if traveling, within one hour after the end of the religious activity;

(3) Governmental or political activity or, if traveling, within one hour after the end of the activity;

(4) School activity or, if traveling, within one hour after the end of the activity;

(5) Assembly such as a march, protest, demonstration, sit-in or meeting of an association for the advancement of economic, political, religious or cultural matters, or for any other activity protected by the First Amendment of the U.S. Constitution guarantees of free exercise of religion, freedom of speech, freedom of assembly or, if traveling, within one hour after the end of the activity.

D. The minor is on an emergency errand for a responsible adult;

E. The minor is engaged in interstate travel through the City beginning, ending or passing through the City when such travel is by direct route.

4. Responsibility of Adults. It is unlawful for any responsible adult knowingly to permit or to allow a minor to be in any public place in the City within the time periods prohibited by this section unless the minor's presence falls within one of the above exceptions.

5. Enforcement Procedures.

A. Determination of Age. In determining the age of the juvenile and in the absence of convincing evidence such as a birth certificate or driver's

license, a law enforcement officer on the street shall, in the first instance, use his or her best judgment in determining age.

B. Grounds for Arrest; Conditions of Custody. Grounds for arrest are that the person refuses to sign the citation without qualification; persists in violating the ordinance; refuses to provide proper identification or to identify himself or herself; or constitutes an immediate threat to the person's own safety or to the safety of the public. A law enforcement officer who arrests a minor for a curfew violation may keep the minor in custody either in a shelter care facility or in any non-secured setting. The officer shall not place bodily restraints, such as handcuffs, on the minor unless the minor physically resists or threatens physical violence when being taken into custody. A minor shall not be placed in detention following a curfew violation.

C. Notification of Responsible Adult. After a minor is taken into custody, the law enforcement officer shall notify the adult responsible for the minor as soon as possible. The minor shall be released to the adult responsible for the minor upon the promise of such person to produce the child in court at such time as the court may direct.

D. Minor Without Adult Supervision. If a law enforcement officer determines that a minor does not have adult supervision because the law enforcement officer cannot locate the minor's parent, guardian or other person legally responsible for the care of the minor, within a reasonable time, the law enforcement officer shall attempt to place the minor with an adult relative of the minor, an adult person who cares for the child or another adult person who is known to the child.

6. Penalties.

A. Responsible Adult's First Violation. In the case of a first violation by a minor, the law enforcement officer shall, by certified mail, send to the adult responsible for the minor, written notice of the violation with a warning that any subsequent violation will result in full enforcement of the curfew ordinance against both the responsible adult and minor, with applicable penalties.

B. Responsible Adult's Second Violation. Any responsible adult as defined in this section who, following receipt of a warning, knowingly allows the minor to violate any of the provisions of this section is guilty of a municipal infraction.

C. Minor's First Violation. In the case of a first violation by a minor, the law enforcement officer shall give the minor a written warning, which states that any subsequent violation will result in full enforcement of the curfew ordinance against the responsible adult and the minor, with applicable penalties, or, at the peace officer's discretion, may issue the minor a citation for a first violation.

D. Minor's Second Violation. For the minor's second and subsequent violations of any of the provisions of this section, the minor is guilty of a municipal infraction.

46.02 CIGARETTES AND TOBACCO. It is unlawful for any person under eighteen (18) years of age to smoke, use, possess, purchase, or attempt to purchase any tobacco, tobacco

products or cigarettes. Possession of cigarettes or tobacco products by a person under eighteen years of age shall not constitute a violation of this section if said person possesses the cigarettes or tobacco products as part of the person's employment and said person is employed by a person who holds a valid permit under Chapter 453A of the *Code of Iowa* and lawfully offers for sale or sells cigarettes or tobacco products.

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

46.03 CONTRIBUTING TO DELINQUENCY. It is unlawful for any per-son to encourage any child under eighteen (18) years of age to commit any act of delinquency.

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

46.04 MINORS IN LIQUOR ESTABLISHMENTS.

1. Minors are prohibited from entering any place of business that sells beer or alcoholic beverages for consumption on premises except when accompanied by a parent or legal guardian; and even when accompanied by a parent or legal guardian no minor shall remain in such place of business after 8:00 p.m.

2. It is unlawful for the owner, operator, manager or any employee of such business, or the parent or legal guardian of any minor, to allow or permit a minor to enter any place of business that sells beer or alcoholic beverages for consumption on premises in violation of this section.

3. The owner of a business that sells beer or alcoholic beverages for on premise consumption may apply for an exemption from the provisions of this section if more than fifty percent (50%) of the business receipts of such business are from the sale of food. The application for the exemption shall be made to the Council annually when application for the renewal of a liquor control license or beer permit is made. The applicant shall have the burden of showing by competent evidence that the business qualifies for exemption from the regulations of this section.

CHAPTER 47

PARK REGULATIONS

47.01 Purpose
47.02 Use of Drives Required
47.03 Fires
47.04 Littering
47.05 Parks Closed
47.06 Camping
47.07 Dogs and Cats

47.01 PURPOSE. The purpose of this chapter is to facilitate the enjoyment of park facilities by the general public by establishing rules and regulations governing the use of park facilities.

(Code of Iowa, Sec. 364.12)

47.02 USE OF DRIVES REQUIRED. No person shall drive any car, cycle or other vehicle, or ride or lead any horse, in any portion of a park except upon the established drives or roadways therein or such other places as may be officially designated by the City.

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

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

47.05 PARKS CLOSED. No person, except those camping in designated areas, shall enter or remain within any park between the hours of 10:00 p.m. and 7:00 a.m.

47.06 CAMPING. No person shall camp in any portion of a park except in portions prescribed or designated by the Council, and the City may refuse camping privileges or rescind any and all camping privileges for cause.

47.07 DOGS AND CATS. It is unlawful for the owner or any person having possession or control of a dog, cat, or other animal to allow or permit such dog, cat, or other animal to enter any shelter house, improved playground equipment area (including the sand or other area upon which the playground equipment is located), or any ball field located in any City Park.

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CHAPTER 48

FIREWORKS

48.01 Purpose
48.02 Use of Consumer Fireworks Prohibited
48.03 Sale of Consumer Fireworks
48.04 Use of Display Fireworks
48.05 Penalty

48.01 PURPOSE. The purpose of this chapter is to permit the sale of consumer fireworks in certain zoning districts and to prohibit the use of consumer fireworks within the City of De Soto in compliance with the *Code of Iowa*.

48.02 USE OF CONSUMER FIREWORKS PROHIBITED. The use of consumer fireworks within the corporate limits of the City of De Soto is prohibited.

48.03 SALE OF CONSUMER FIREWORKS. Consumer fireworks sales shall only be allowed in the M-1 Light Industrial District and the M-1A Limited Industrial District.

1. The seller of consumer fireworks must have a valid consumer fireworks license issued by the State of Iowa. The seller must also have a valid transient merchant license issued by the City of De Soto if their business meets the definitions within Chapter 122 of the De Soto Code of Ordinances.

2. The sale from a permanent building shall be between June 1 and July 8 and between December 10 and January 3 each year, all dates inclusive.

3. The Sale from a temporary structure shall be between June 13 and July 8 each year only, both dates inclusive.

4. Consumer fireworks shall not be sold to anyone under eighteen years of age.

48.04 USE OF DISPLAY FIREWORKS. The use of display fireworks within the corporate limits of the City of De Soto is prohibited without a valid permit. The City Council may, upon application in writing, grant a permit for the display of fireworks by a City agency, fair associations, amusement parks, or other organizations or groups of individuals approved by the Council when such fireworks display will be handled by a competent operator. No permit shall be granted unless the operator or sponsoring organization has filed with the City evidence of insurance in the following amounts:

Personal Injury:	$ 250,000.00	per person
Property Damage:	$ 50,000.00	
Total Exposure	$ 1,000,000.00	

48.05 PENALTY. Any person who violates this chapter commits a simple misdemeanor, punishable by a fine of not less than $250.00.

(Ch. 48 – Ord. 319 – May 17 Supp.)

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CHAPTER 50

NUISANCE ABATEMENT PROCEDURE

50.01 Definition of Nuisance
50.02 Nuisances Enumerated
50.03 Other Conditions
50.04 Nuisances Prohibited
50.05 Nuisance Abatement
50.06 Abatement of Nuisance by Written Notice
50.07 Municipal Infraction Abatement Procedure

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

(Code of Iowa, Sec. 657.1)

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

(Code of Iowa, Sec. 657.2)

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

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

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

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

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

6. Billboards. Billboards, signboards and advertising signs, whether erected and constructed on public or private property, which so obstruct and impair the view of any portion or part of a public street, avenue, highway, boulevard or alley or of a railroad or street railway track as to render dangerous the use thereof. **(See also Section 62.06)**

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

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

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

10. Dutch Elm Disease. Trees infected with Dutch Elm Disease. **(See also Chapter 151)**

11. 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.

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

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

1. Junk and Junk Vehicles **(See Chapter 51)**
2. Weeds and Grass **(See Chapter 53)**
3. Storage and Disposal of Solid Waste **(See Chapter 105)**
4. Trees **(See Chapter 151)**

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

(Code of Iowa, Sec. 657.3)

50.05 NUISANCE ABATEMENT. Whenever any authorized municipal officer finds that a nuisance exists, such officer has the authority to determine on a case-by-case basis whether to utilize the nuisance abatement procedure described in Section 50.06 of this chapter or the municipal infraction procedure referred to in Section 50.07.

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

50.06 ABATEMENT OF NUISANCE BY WRITTEN NOTICE. Any nuisance, public or private, may be abated in the manner provided for in this section:

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

1. Contents of Notice to Property Owner. The notice to abate shall contain: †

   A. Description of Nuisance. A description of what constitutes the nuisance.

   B. Location of Nuisance. The location of the nuisance.

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

C. Acts Necessary to Abate. A statement of the act or acts necessary to abate the nuisance.

D. Reasonable Time. A reasonable time within which to complete the abatement.

E. Assessment of City Costs. A statement that if the nuisance or condition is not abated as directed and no request for hearing is made within the time prescribed, the City will abate it and assess the costs against the property owner.

2. 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, Sec. 364.12[3h])

3. 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.

4. 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 subsection 6 of this section after notice to the property owner under the applicable provisions of subsection 1 and 2, and the hearing as provided in subsection 3.

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

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

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

6. 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 Treasurer and such costs shall then be collected with, and in the same manner as, general property taxes.

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

7. Installment Payment of Cost of Abatement. If the amount expended to abate the nuisance or condition exceeds one hundred dollars ($100.00), the City may 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 rates provided for assessments against benefited property under State law.

(Code of Iowa, Sec. 364.13)

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

50.07 MUNICIPAL INFRACTION ABATEMENT PROCEDURE. In lieu of the abatement procedures set forth in Section 50.06, the requirements of this chapter may be enforced under the procedures applicable to municipal infractions as set forth in Chapter 3 of this Code of Ordinances.

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CHAPTER 51

JUNK AND JUNK VEHICLES

51.01 Definitions
51.02 Junk and Junk Vehicles Prohibited
51.03 Junk and Junk Vehicles a Nuisance
51.04 Exceptions
51.05 Notice to Abate

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

1. "Junk" means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

2. "Junk vehicle" means any vehicle which has any of the following characteristics:

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

B. Broken, Loose or Missing Part. Any vehicle with a broken, loose or missing fender, door, bumper, hood, steering wheel or trunk lid.

C. Habitat for Nuisance Animals or Insects. Any vehicle which has become the habitat for rats, mice, or snakes, or any other vermin or insects.

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

E. Inoperable. Any motor vehicle which lacks an engine or two or more wheels or other structural parts, rendering said motor vehicle totally inoperable, or which cannot be moved under its own power or has not been used as an operating vehicle for a period of thirty (30) days or more.

F. Defective or Obsolete Condition. Any other vehicle which, because of its defective or obsolete condition, in any other way constitutes a threat to the public health and safety.

G. Registered and Licensed. Any vehicle not currently registered and licensed for operation on public highways.

H. Storage. Any vehicle legally placed in storage with the County Treasurer which is not stored in a garage or other enclosed structure.

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

3. "Vehicle" means every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, excepting devices moved by human power or used exclusively upon stationary rails or tracks, and includes without

limitation a motor vehicle, automobile, truck, motorcycle, tractor, buggy, wagon, farm machinery, or any combination thereof.

51.02 JUNK AND JUNK VEHICLES PROHIBITED. It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk or junk vehicle.

51.03 JUNK AND JUNK VEHICLES A NUISANCE. It is hereby declared that any junk or junk vehicle located upon private property, unless excepted by Section 51.04, constitutes a threat to the health and safety of the citizens and is a nuisance within the meaning of Section 657.1 of the Code of Iowa. If any junk or junk vehicle is kept upon private property in violation hereof, the owner of or person occupying the property upon which it is located shall be prima facie liable for said violation.

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

51.04 EXCEPTIONS. The provisions of this chapter do not apply to any junk or a junk vehicle stored within:

1. Structure. A garage or other enclosed structure; or

2. Salvage Yard. An auto salvage yard or junkyard lawfully operated within the City.

51.05 NOTICE TO ABATE. Upon discovery of any junk or junk vehicle located upon private property in violation of Section 51.03, the City shall within five (5) days initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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

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CHAPTER 53

WEEDS AND GRASS

53.01 Purpose
53.02 Definitions
53.03 Cutting Specifications and Standards of Practice
53.04 Uniform Height Specifications
53.05 Noxious Weeds
53.06 Notice to Abate

53.01 PURPOSE. The purpose of this chapter is to beautify and preserve the appearance of the City by requiring property owners and occupants to maintain grass lawns at a uniform height within the boundaries of their property and on abutting street right-of-way in order to prevent unsightly, offensive or nuisance conditions.

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

1. "Curb," "curb line" or "curbing" means the outer boundaries of a street at the edge of that portion of the street usually traveled by vehicular traffic.

2. "Cut" or "mow" means to mechanically maintain the growth of grass, weeds or brush at a uniform height.

3. "Owner" means a person owning private property in the City and any person occupying private property in the City.

4. "Parking" means that part of a street in the City not covered by a sidewalk and lying between the lot line or property line and the curb line; or on unpaved streets, that part of the street lying between the lot line or property line and that portion of the street usually traveled by vehicular traffic.

53.03 CUTTING SPECIFICATIONS AND STANDARDS OF PRACTICE.

1. Every owner shall cut, mow and maintain all grass, weeds and brush upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, to a uniform height as defined in Section 53.04.

2. Every owner shall cut, mow and maintain grass, weeds and brush adjacent to the curb line, including the parking area abutting the owner's property, in such a manner so as to be in conformity with and at an even height with all other grass, weeds or brush growing on the remainder of the owner's property.

53.04 UNIFORM HEIGHT SPECIFICATIONS. Grass, weeds, or brush shall be cut, mowed, and maintained so as not to exceed the following height specifications:

1. Developed Residential Areas – not to exceed six inches.

2. Undeveloped Residential Areas – not to exceed eight inches.

3. Business and Industrial Areas – not to exceed six inches.

Grass, weeds, and brush which are allowed to grow in excess of the above specified limitations are deemed to be violations of this chapter.

53.05 NOXIOUS WEEDS.

1. Every owner shall cut and control noxious weeds upon the owner's property and adjacent to the curb line or outer boundary of any street, which includes the parking area abutting the owner's property, by cutting noxious weeds to ground level or use of herbicides to eliminate or eradicate such weeds.

2. Noxious weeds include any weed growth or plant designated as noxious by the State Department of Natural Resources rules and regulations or by the Code of Iowa.

53.06 NOTICE TO ABATE. Upon discovery of any violations of this chapter, the City may initiate abatement procedures as outlined in Chapter 50 of this Code of Ordinances.

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CHAPTER 54

MAINTENANCE OF FORECLOSING PROPERTIES

54.01 Purpose
54.02 Definitions
54.03 Registration Requirements
54.04 Security Requirements
54.05 Maintenance Requirements
54.06 Enforcement
54.07 Violations

54.01 PURPOSE. The purpose of this chapter is to protect and preserve the public health, safety, security, and enjoyment of the use of property located within the City of De Soto by residents, visitors, and business by (1) requiring all residential and commercial property owners or title-holders, including lenders and trustees, to have their vacant, foreclosed properties registered with the City of De Soto, if the property registration information has not already been made available to the City of De Soto through other means; and (2) regulating the security and maintenance of residential and commercial vacant, foreclosed properties to prevent blighted and unsecure residences and buildings. The City Council finds that the occurrence of foreclosures may lead to buildings and structures becoming targets for criminal activity. The City Council also finds that foreclosed buildings and structures that remain unoccupied for months or even years are more likely to experience multiple violations of the building, fire, housing and nuisance municipal codes. The City Council further finds that vacant and foreclosed properties are likely to negatively impact surrounding neighborhoods and business districts. Based on these findings, the City Council has deemed it necessary to enact the following regulations for the City of De Soto.

54.02 DEFINITIONS. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this chapter, except where the context clearly indicates a different meaning:

1. "Accessible Property" means a property that is accessible through a compromised, breached, or broken gate, fence, or other entry point.

2. "Accessible Structure" means a structure that is unsecured or breached in such a way as to allow access to the interior space by unauthorized persons.

3. "Beneficiary" means a lender, lender's designee, nominee, or servicer under a note secured by a deed of trust or mortgage.

4. "Commercial Building" means a building used for the barter, exchange, sale, service or trade of goods, materials, or services, either tangible or intangible for financial, material, or monetary gain.

5. "Days" means consecutive calendar days.

6. "Deed of Trust" means an instrument by which title to real estate is transferred to a third party trustee as security for a real estate loan. This definition includes any subsequent deeds of trust.

7. "Deed in Lieu of Foreclosure or Sale" means a recorded document that transfers ownership of a property from the trustor to the holder of a deed of trust upon consent of the beneficiary of the deed of trust.

8. "Default" means the failure to fulfill a contractual obligation, monetary or conditional.

9. "Enforcement Official" means the City Administrator, the Building Official, the Fire Chief, the Chief of Police, and/or any of the City Department Officials, including code enforcement officers, who are responsible for enforcing the provisions of this chapter.

10. "Evidence of Vacancy" means any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions include, but are not limited to, overgrown or dead vegetation, accumulation of newspapers, circulars, flyers or mail, past due utility notices or disconnected utilities, accumulation of trash, junk, or debris, the absence of window coverings such as curtains, blinds, or shutters, the absence of furnishings or personal items consistent with residential habitation, statements by neighbors, passersby, delivery agents, and government employees that the property is vacant.

11. "Foreclosure" means procedure whereby property pledged as security for a debt is sold to pay the debt in the event of default in payments or terms.

12. "Local" means located within sixty (60) road or driving miles distance of the subject property.

13. "Mortgage" means an instrument by which a borrower pledges certain real property or collateral as guarantee for the repayment of a loan.

14. "Mortgagee" means the lender in a mortgage loan transaction.

15. "Mortgagor" means the borrower in a mortgage loan transaction.

16. "Notice of Default" means a notice issued pursuant to the applicable real estate security document or required by law that a default has occurred under a deed of trust or mortgage.

17. "Out-of-State Beneficiary" means a beneficiary who does not have a physical presence in the state of Iowa.

18. "Owner" means any person, partnership, association, corporation, fiduciary, or other legal entity having a legal or equitable title or any interest in real property.

19. "Owner of Record" means the person holding recorded title to the property at any point in time when official records are produced by the County Recorder's Office.

20. "Property" means any unimproved or improved real property, or portion thereof, situated in the City and includes the buildings or structures located on the property regardless of condition.

21. "Registered Representative" means the person designated by a beneficiary as the beneficiary's representative for the purpose of accepting notice, service, and summons on behalf of the beneficiary and for otherwise ensuring compliance with the De Soto Municipal Code requirements.

22. "Residential Building" means any improved real property or portion thereof, situated in the City, designed or permitted to be used for dwelling purposes, and shall include the buildings and structures located on such improved real property. This includes any real property being offered for sale, trade, transfer, or exchange as "residential" whether or not it is legally permitted or zoned for such use.

23. "Securing" means such measures as may be directed by an Enforcement Official that assist in rendering the real property inaccessible to unauthorized persons, including but not limited to repairing fences and walls, chaining or padlocking of gates, and the repairing or boarding of doors, windows, or other openings.

24. "Trustee" means any person, partnership, association, corporation, fiduciary, or other legal entity holding a deed of trust or mortgage securing an interest in real property.

25. "Trustor" means any borrower under a deed of trust or mortgage who deeds property to a trustee as security for the payment of a debt.

26. "Vacant" means any building structure, or real property that is unoccupied or occupied by a person without a legal right of occupancy.

54.03 REGISTRATION REQUIREMENTS. The following provisions shall apply to commercial and residential properties located in the City that have been subject to foreclosure action. Beneficiaries who have voluntarily registered their properties with the City at any time following the issuance of a notice of default by the mortgagee or trustee to the mortgagor or trustor, but prior to obtaining title to the property through a foreclosure action, or who have registered their properties on the *MERS system* allowing the City to access current property preservation contact information, shall be considered exempt from complying with the following registration requirements:

1. Any beneficiary under a deed of trust or mortgage covering a property located within the City shall be responsible for having an inspection performed of the property that is the security for the deed of trust or mortgage within twenty (20) days of obtaining title to the property through a foreclosure action. If, at the time of the inspection, the property is found to be vacant or shows evidence of vacancy, the beneficiary shall, within ten (10) days of the inspection, register the property with the City Clerk on forms provided by the City. There is no fee associated with the property registration if the beneficiary complies with these time deadlines.

2. The registration shall contain the full legal name of the beneficiary and the registered representative, the direct street or office mailing address of the beneficiary and the registered representative (NO Post Office boxes), a direct contact name and telephone number for the beneficiary and registered representative, and, if applicable, the local property management company responsible for the security, maintenance, and marketing of the property for an out-of-state beneficiary. A company e-mail address may be used for the beneficiary and registered representative in lieu of a direct contact name and telephone number.

3. The registration shall be valid as long as the subject property remains vacant and shall be amended as needed.

4. This section shall also apply to properties that have been the subject of a foreclosure sale where title to the property was transferred to the beneficiary of a deed of trust or mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

5. Properties subject to this chapter shall remain under the security and maintenance standards of this chapter as long as they remain vacant.

6. Any person or entity that has registered a property under this chapter must report any change of information contained in the registration within ten (10) days of the change.

54.04 SECURITY REQUIREMENTS.

1. All registered properties shall be maintained in a secure manner so as not to be accessible to unauthorized persons. This includes, without limitation, the closure and locking of windows, doors (walk-through, sliding, and garage), gates, and any other opening of such size that it may allow a child to access the interior of the property and or structure(s). In the case of broken windows, "securing" means the re-glazing or boarding of the window.

2. If the beneficiary is an out-of-state beneficiary, a local property management company shall be contracted by the beneficiary to perform appropriate and timely inspections to verify that the requirements of this chapter, and any other applicable laws, have been satisfied.

3. The beneficiary shall cause the property to be inspected on an appropriate and timely basis to determine if the property is in compliance with the requirements of this chapter.

54.05 MAINTENANCE REQUIREMENTS. All registered properties shall comply with all of the requirements of the De Soto Municipal Code. Adherence to this chapter does not relieve the beneficiary or property owner of any obligations set forth in any covenants conditions and restrictions or homeowners' association rules and regulations which may apply to the property. The duties and obligations specified in this chapter shall be joint and several among and between all trustees and beneficiaries and their respective agents.

54.06 ENFORCEMENT. This chapter is intended to be cumulative to, and not in place of, other rights and remedies available to the City pursuant to the De Soto Municipal Code. The City Attorney's Office and the City's Enforcement Officials have the authority to enforce this chapter, including the pursuit of any right or remedy permitted by this Code, including but not limited to commencement of any civil action or administrative action to abate any nuisances.

54.07 VIOLATIONS. Violations of this chapter are declared to be municipal infractions pursuant to Chapter 3 of this Code of Ordinances. Any civil penalties imposed shall be in addition to any alternative relief sought by the City, such as seeking reimbursement for the City's costs for abatement or correction of the violation(s).

(Ch. 54 – Ord. 289 – Feb. 10 Supp.)

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CHAPTER 55

ANIMAL PROTECTION AND CONTROL

55.01 Definitions
55.02 Animal Neglect
55.03 Livestock Neglect
55.04 Abandonment of Cats and Dogs
55.05 Livestock
55.06 At Large Prohibited
55.07 Damage or Interference
55.08 Annoyance or Disturbance
55.09 Owner's Duty
55.10 Confinement
55.11 At Large: Impoundment
55.12 Disposition of Animals
55.13 Impounding Fees and Cost
55.14 Sanitation
55.15 Pet Awards Prohibited

55.01 DEFINITIONS. The following terms are defined for use in this chapter.

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

2. "Animal" means a nonhuman vertebrate.

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

3. "At large" means off the premises of the owner and not under the control of a competent person, restrained within a motor vehicle, or housed in a veterinary hospital or kennel.

4. "Business" means any enterprise relating to any of the following:

A. The sale or offer for sale of goods or services.

B. A recruitment for employment or membership in an organization.

C. A solicitation to make an investment.

D. An amusement or entertainment activity.

5. "Fair" means any of the following:

A. The annual fair and exposition held by the Iowa State Fair Board pursuant to Chapter 173 of the *Code of Iowa* or any fair event conducted by a fair under the provisions of Chapter 174 of the *Code of Iowa*.

B. An exhibition of agricultural or manufactured products.

C. An event for operation of amusement rides or devices or concession booths.

6. "Game" means a "game of chance" or "game of skill" as defined in Section 99B.1 of the *Code of Iowa*.

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

(Code of Iowa, Sec. 717.1)

8. "Owner" means any person owning, keeping, sheltering or harboring an animal.

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

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

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

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

(Code of Iowa, Sec. 717.2)

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

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

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

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

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

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

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

(Code of Iowa, Sec. 351.38)

55.10 CONFINEMENT. If a local board of health receives information that an animal has bitten a person or that a dog or animal is suspected of having rabies, the board shall order the owner to confine such animal in the manner it directs. If the owner fails to confine such animal in the manner directed, the animal shall be apprehended and impounded by such board,

and after ten (10) days the board may humanely destroy the animal. If such animal is returned to its owner, the owner shall pay the cost of impoundment. This section does not apply if a police service dog or a horse used by a law enforcement agency and acting in the performance of its duties has bitten a person.

(Code of Iowa, Sec. 351.39)

55.11 AT LARGE: IMPOUNDMENT. Animals found at large in violation of this chapter shall be seized and impounded at the impoundment facilities utilized by the City, or at the discretion of the peace officer, the owner may be served a summons to appear before a proper court to answer charges made thereunder.

55.12 DISPOSITION OF ANIMALS. When an animal has been apprehended and impounded, written notice shall be provided to the owner within two (2) days after impoundment, if the owner's name and current address can reasonably be determined by accessing a tag or other device that is on or part of the animal. Impounded animals may be recovered by the owner upon payment of impounding costs, and if an unvaccinated dog, by having it immediately vaccinated. If the owner fails to redeem the animal within seven (7) days from the date that the notice is mailed, or if the owner cannot be located within seven days, the animal shall be disposed of in accordance with law or destroyed by euthanasia.

(Code of Iowa, Sec. 351.37, 351.41)

55.13 IMPOUNDING FEES AND COST. Impounding fees are fifty dollars ($50.00) for the first occurrence, one hundred dollars ($100.00) for the second occurrence and one hundred fifty dollars ($150.00) for the third occurrence, which shall be paid to the Clerk, plus the cost of impoundment as established and charged by the impoundment facility. Any animal impounded for a fourth time within a 24-month period shall be deemed a nuisance and may be disposed of in a humane manner without notice to anyone.

55.14 SANITATION. It is unlawful for any owner, keeper, walker, or anyone having custody or control of an animal to permit said animal to discharge said animal's feces upon any public or private property within the City, other than the property of the owner of the animal, if such owner, keeper, walker, or other person having custody or control of the animal does not immediately thereafter remove and/or clean up said animal's feces from the public or private property and dispose of said feces in a sanitary manner. In addition, it is unlawful for the owner or person in charge of any dog, cat, or other animal to fail to keep the premises where the animal is kept within the City in a clean and sanitary condition at all times.

55.15 PET AWARDS PROHIBITED.

(Code of Iowa, Ch. 717.E)

1. Prohibition. It is unlawful for any person to award a pet or advertise that a pet may be awarded as any of the following:

   A. A prize for participating in a game.

   B. A prize for participating in a fair.

   C. An inducement or condition for visiting a place of business or attending an event sponsored by a business.

   D. An inducement or condition for executing a contract which includes provisions unrelated to the ownership, care or disposition of the pet.

2. Exceptions. This section does not apply to any of the following:

A. A pet shop licensed pursuant to Section 162.5 of the *Code of Iowa* if the award of a pet is provided in connection with the sale of a pet on the premises of the pet shop.

B. Youth programs associated with 4-H Clubs; Future Farmers of America; the Izaak Walton League of America; or organizations associated with outdoor recreation, hunting or fishing, including but not limited to the Iowa Sportsmen's Federation.

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CHAPTER 56

CAT AND DOG LICENSES REQUIRED

56.01 Annual License Required
56.02 License Fees
56.03 Delinquency
56.04 License Tags
56.05 License Records
56.06 Immunization
56.07 Kennel Dogs and Cats

56.01 ANNUAL LICENSE REQUIRED.

1. Every owner of a cat or dog over the age of six (6) months shall procure a pet license from the Clerk before the first day of January of each year.

2. Such license may be procured at any time for a dog or cat which has come into the possession or ownership of the applicant or which has reached the age of six (6) months after January 1 of any year; license fees shall be pro rated by the month for pets acquired during the year, for new residents, or for pets reaching age six months.

3. The owner of a cat or dog for which a license is required shall apply to the Clerk on forms provided by the Clerk.

4. The form of the application shall state the breed, sex, age, color, markings, and name, if any, of the cat or dog, and the address of the owner and shall be signed by the owner. The application shall also state the date of the most recent rabies vaccination, the type of vaccine administered, and the date the dog or cat shall be revaccinated.

56.02 LICENSE FEES. The annual license fee is five dollars ($5.00) for each neutered cat or dog and fifteen dollars ($15.00) for each non-neutered cat or dog. Residents may apply and renew licenses by mail for an additional $1.00 processing and mailing fee.

56.03 DELINQUENCY. All license fees shall become delinquent on January 31 of each year and the penalty is $5.00 for each license not obtained before January 31 and an additional $2.00 per month after January 31.

56.04 LICENSE TAGS. Upon receipt of the application and fee, the Clerk shall deliver or mail to the owner a license which shall be in the form of a metal tag stamped with the serial number of the license as shown on the record book of the Clerk, the year in which it is issued, and the name of the City. The license tag shall be securely fastened by the owner to a collar or harness which shall be worn at all times by the cat or dog for which issued. A license issued for one animal shall not be transferable to another animal. Upon the expiration of the license the owner shall remove said tag from the dog or cat.

56.05 LICENSE RECORDS. The Clerk shall keep a book to be known as the record of licenses which shall show:

1. The serial number and date of each application for a license.

2. The description of the cat or dog as specified in the application, together with the name of the owner of the cat or dog.

3. The date when each license tag is issued and the serial number of each tag, the date of the most recent rabies vaccination, the type of vaccine administered, and the date the cat or dog shall be revaccinated.

4. The amount of all fees paid.

5. Such other data as may be required by law.

56.06 IMMUNIZATION. Before a license is issued, the owner shall furnish a veterinarian's certificate showing that the cat or dog for which the license is sought has been vaccinated against rabies, and that the vaccination does not expire within six months from the effective date of the cat or dog license. A tag showing evidence of proper vaccination shall at all times be attached to the collar of the cat or dog.

56.07 KENNEL DOGS AND CATS. Cats or dogs kept in State or Federally licensed kennels, which are kept or raised solely for the bona fide purpose of sale and which are kept under constant restraint, are not subject to the provisions of this chapter.

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CHAPTER 57

DANGEROUS AND VICIOUS ANIMALS

57.01 Definitions
57.02 Keeping of Dangerous Animals Prohibited
57.03 Keeping of Vicious Animals Prohibited
57.04 Seizure, Impoundment and Disposition

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

1. "Dangerous animal" means[†]:

   A. Badgers, wolverines, weasels, skunk and mink;

   B. Raccoons;

   C. Bats;

   D. Scorpions.

2. "Vicious animal" means any animal, except for a dangerous animal per se, as listed above, that has attacked, bitten or clawed a person while running at large and the attack was unprovoked, or any animal that has exhibited vicious tendencies in present or past conduct, including such that said animal (a) has bitten more than one person during the animal's lifetime; or (b) has bitten one person on two or more occasions during the animal's lifetime; or (c) has attacked any domestic animal or fowl without provocation, causing injury or death while off the property of the owner.

57.02 KEEPING OF DANGEROUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor any dangerous animal as a pet, or act as a temporary custodian for such animal, or keep, shelter or harbor such animal for any purpose or in any capacity within the City.

57.03 KEEPING OF VICIOUS ANIMALS PROHIBITED. No person shall keep, shelter, or harbor for any reason within the City a vicious animal except in the following circumstances:

1. Animals under the control of a law enforcement or military agency.

2. The keeping of guard dogs; however, guard dogs must be kept within a structure or fixed enclosure at all times, and any guard dog found at large may be processed as a vicious animal pursuant to the provisions of this chapter. Any premises guarded by a guard dog shall be prominently posted with a sign containing the wording "Guard Dog," "Vicious Dog" or words of similar import, and the owner of such premises shall inform the Mayor or peace officer that a guard dog is on duty at said premises.

[†] **EDITOR'S NOTE:** Certain other dangerous animals, listed in Chapter 717F.1, paragraph 5a, of the *Code of Iowa,* are specifically prohibited and regulated by the Iowa Department of Agriculture and Land Stewardship.

57.04 SEIZURE, IMPOUNDMENT AND DISPOSITION.

1. In the event that a dangerous animal or vicious animal is found at large and unattended upon public property, park property, public right-of-way or the property of someone other than its owner, thereby creating a hazard to persons or property, such animal may, in the discretion of the Mayor or peace officer, be destroyed if it cannot be confined or captured. The City shall be under no duty to attempt the confinement or capture of a dangerous animal or vicious animal found at large, nor shall it have a duty to notify the owner of such animal prior to its destruction.

2. Upon the complaint of any individual that a person is keeping, sheltering or harboring a dangerous animal or vicious animal on premises in the City, the Mayor or peace officer shall cause the matter to be investigated and if after investigation, the facts indicate that the person named in the complaint is keeping, sheltering or harboring a dangerous or vicious animal in the City, the Mayor or peace officer shall order the person named in the complaint to safely remove such animal from the City or destroy the animal within three (3) days of the receipt of such an order. Such order shall be contained in a notice to remove the dangerous or vicious animal, which notice shall be given in writing to the person keeping, sheltering, or harboring the dangerous animal or vicious animal, and shall be served personally or by certified mail. Such order and notice to remove the dangerous animal or vicious animal shall not be required where such animal has previously caused serious physical harm or death to any person, in which case the Mayor or peace officer shall cause the animal to be immediately seized and impounded or killed if seizure and impoundment are not possible without risk of serious physical harm or death to any person.

3. The order to remove a dangerous animal or vicious animal issued by the Mayor or peace officer may be appealed to the Council. In order to appeal such order, written notice of appeal must be filed with the Clerk within three (3) days after receipt of the order contained in the notice to remove the dangerous or vicious animal. Failure to file such written notice of appeal shall constitute a waiver of the right to appeal the order of the Mayor or peace officer.

4. The notice of appeal shall state the grounds for such appeal and shall be delivered personally or by certified mail to the Clerk. The hearing of such appeal shall be scheduled within seven (7) days of the receipt of the notice of appeal. The hearing may be continued for good cause. After such hearing, the Council may affirm or reverse the order of the Mayor or peace officer. Such determination shall be contained in a written decision and shall be filed with the Clerk within three (3) days after the hearing or any continued session thereof.

5. If the Council affirms the action of the Mayor or peace officer, the Council shall order in its written decision that the person owning, sheltering, harboring or keeping such dangerous or vicious animal remove such animal from the City or destroy it. The decision and order shall immediately be served upon the person against whom rendered in the same manner as the notice of removal. If the original order of the Mayor or peace officer is not appealed and is not complied with within three days or the order of the Council after appeal is not complied with within three days of its issuance, the Mayor or peace officer is authorized to seize, impound, or

destroy such dangerous or vicious animal. Failure to comply with an order of the Mayor or peace officer issued pursuant to this chapter and not appealed, or of the Council after appeal, constitutes a simple misdemeanor.

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CHAPTER 60

ADMINISTRATION OF TRAFFIC CODE

60.01 Title
60.02 Definitions
60.03 Administration and Enforcement
60.04 Power to Direct Traffic
60.05 Traffic Accidents: Reports
60.06 Peace Officer's Authority
60.07 Obedience to Peace Officers
60.08 Parades Regulated

60.01 TITLE. Chapters 60 through 70 of this Code of Ordinances may be known and cited as the "De Soto Traffic Code."

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

(Code of Iowa, Sec. 321.1)

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

2. "Park" or "parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

3. "Peace officer" means every officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

4. "Residence district" means the territory contiguous to and including a highway not comprising a business, suburban or school district, where forty percent (40%) or more of the frontage on such a highway for a distance of three hundred (300) feet or more is occupied by dwellings or by dwellings and buildings in use for business.

5. "School district" means the territory contiguous to and including a highway for a distance of two hundred (200) feet in either direction from a school house.

6. "Stand" or "standing" means the halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

7. "Stop" means when required, the complete cessation of movement.

8. "Stop" or "stopping" means when prohibited, any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control sign or signal.

9. "Suburban district" means all other parts of the City not included in the business, school or residence districts.

10. "Traffic control device" means all signs, signals, markings, and devices not inconsistent with this chapter, lawfully placed or erected for the purpose of regulating, warning, or guiding traffic.

11. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, street, or alley.

60.03 ADMINISTRATION AND ENFORCEMENT. Provisions of this Traffic Code and State law relating to motor vehicles and law of the road are enforced by the Police Department.

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

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

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

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

(Code of Iowa, Sec. 321.273)

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

(Code of Iowa, Sec. 321.492)

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

(Code of Iowa, Sec. 321.229)

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

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

2. Permit Required. No parade shall be conducted without first obtaining a written permit from the Council. Such permit shall state the time and date for the parade to be held and the streets or general route therefor. Such written permit granted to the person organizing or sponsoring the parade shall be permission for all

participants therein to parade when such participants have been invited by the permittee to participate therein.

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

4. Control By Police and Firefighters. Persons participating in any parade shall at all times be subject to the lawful orders and directions in the performance of their duties of law enforcement personnel and members of the Fire Department.

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CHAPTER 61

TRAFFIC CONTROL DEVICES

61.01 Installation
61.02 Crosswalks
61.03 Traffic Lanes
61.04 Standards
61.05 Compliance

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

(Code of Iowa, Sec. 321.255)

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

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

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

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

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

(Code of Iowa, Sec. 321.255)

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

(Code of Iowa, Sec. 321.256)

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CHAPTER 62

GENERAL TRAFFIC REGULATIONS

62.01 Violation of Regulations
62.02 Play Streets Designated
62.03 Vehicles on Sidewalks
62.04 Clinging to Vehicle
62.05 Quiet Zones
62.06 Obstructing View at Intersections
62.07 Engine Brakes and Compression Brakes

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

1. Section 321.17 – Misdemeanor to violate registration provisions.
2. Section 321.32 – Registration card, carried and exhibited.
3. Section 321.37 – Display of plates.
4. Section 321.38 – Plates, method of attaching, imitations prohibited.
5. Section 321.57 – Operation under special plates.
6. Section 321.67 – Certificate of title must be executed.
7. Section 321.78 – Injuring or tampering with vehicle.
8. Section 321.79 – Intent to injure.
9. Section 321.91 – Penalty for abandonment.
10. Section 321.98 – Operation without registration.
11. Section 321.99 – Fraudulent use of registration.
12. Section 321.104 – Penal offenses again title law.
13. Section 321.115 – Antique vehicles; model year plates permitted.
14. Section 321.174 – Operators licensed.
15. Section 321.174A – Operation of motor vehicles with expired license.
16. Section 321.180 – Instruction permits.
17. Section 321.180B – Graduated driver's licenses for persons aged fourteen through seventeen.
18. Section 321.193 – Restricted licenses.
19. Section 321.194 – Special minor's licenses.
20. Section 321.208A – Operation in violation of out-of-service order.
21. Section 321.216 – Unlawful use of license and nonoperator's identification card.
22. Section 321.216B – Use of driver's license or nonoperator's identification card by underage person to obtain alcohol.

23. Section 321.216C – Use of driver's license or nonoperator's identification card by underage person to obtain cigarettes or tobacco products.

24. Section 321.218 – Operating without valid driver's license or when disqualified.

25. Section 321.219 – Permitting unauthorized minor to drive.

26. Section 321.220 – Permitting unauthorized person to drive.

27. Section 321.221 – Employing unlicensed chauffeur.

28. Section 321.222 – Renting motor vehicle to another.

29. Section 321.223 – License inspected.

30. Section 321.224 – Record kept.

31. Section 321.232 – Radar jamming devices; penalty.

32. Section 321.234A – All-terrain vehicles.

33. Section 321.235A – Electric personal assistive mobility devices.

34. Section 321.247 – Golf cart operation on City streets.

35. Section 321.257 – Official traffic control signal.

36. Section 321.259 – Unauthorized signs, signals or markings.

37. Section 321.260 – Interference with devices, signs or signals; unlawful possession.

38. Section 321.262 – Damage to vehicle.

39. Section 321.263 – Information and aid.

40. Section 321.264 – Striking unattended vehicle.

41. Section 321.265 – Striking fixtures upon a highway.

42. Section 321.266 – Reporting accidents.

43. Section 321.275 – Operation of motorcycles and motorized bicycles.

44. Section 321.277 – Reckless driving.

45. Section 321.277A – Careless driving.

46. Section 321.278 – Drag racing prohibited.

47. Section 321.284 – Open container; drivers.

48. Section 321.284A – Open container; passengers.

49. Section 321.288 – Control of vehicle; reduced speed.

50. Section 321.295 – Limitation on bridge or elevated structures.

51. Section 321.297 – Driving on right-hand side of roadways; exceptions.

52. Section 321.298 – Meeting and turning to right.

53. Section 321.299 – Overtaking a vehicle.

54. Section 321.302 – Overtaking and passing.

55. Section 321.303 – Limitations on overtaking on the left.

56. Section 321.304 – Prohibited passing.
57. Section 321.306 – Roadways laned for traffic.
58. Section 321.307 – Following too closely.
59. Section 321.308 – Motor trucks and towed vehicles; distance requirements.
60. Section 321.309 – Towing; convoys; drawbars.
61. Section 321.310 – Towing four-wheel trailers.
62. Section 321.312 – Turning on curve or crest of grade.
63. Section 321.313 – Starting parked vehicle.
64. Section 321.314 – When signal required.
65. Section 321.315 – Signal continuous.
66. Section 321.316 – Stopping.
67. Section 321.317 – Signals by hand and arm or signal device.
68. Section 321.318 – Method of giving hand and arm signals.
69. Section 321.319 – Entering intersections from different highways.
70. Section 321.320 – Left turns; yielding.
71. Section 321.321 – Entering through highways.
72. Section 321.322 – Vehicles entering stop or yield intersection.
73. Section 321.323 – Moving vehicle backward on highway.
74. Section 321.323A – Approaching certain stationary vehicles.
75. Section 321.324 – Operation on approach of emergency vehicles.
76. Section 321.324A – Funeral processions.
77. Section 321.329 – Duty of driver; pedestrians crossing or working on highways.
78. Section 321.330 – Use of crosswalks.
79. Section 321.332 – White canes restricted to blind persons.
80. Section 321.333 – Duty of drivers approaching blind persons.
81. Section 321.340 – Driving through safety zone.
82. Section 321.341 – Obedience to signal of train.
83. Section 321.342 – Stop at certain railroad crossings; posting warning.
84. Section 321.343 – Certain vehicles must stop.
85. Section 321.344 – Heavy equipment at crossing.
86. Section 321.344B – Immediate safety threat; penalty.
87. Section 321.354 – Stopping on traveled way.
88. Section 321.359 – Moving other vehicle.
89. Section 321.362 – Unattended motor vehicle.

90. Section 321.363 – Obstruction to driver's view.

91. Section 321.364 – Vehicles shipping food; preventing contamination by hazardous material.

92. Section 321.365 – Coasting prohibited.

93. Section 321.367 – Following fire apparatus.

94. Section 321.368 – Crossing fire hose.

95. Section 321.369 – Putting debris on highway.

96. Section 321.370 – Removing injurious material.

97. Section 321.371 – Clearing up wrecks.

98. Section 321.372 – School buses.

99. Section 321.381 – Movement of unsafe or improperly equipped vehicles.

100. Section 321.381A – Operation of low-speed vehicles.

101. Section 321.382 – Upgrade pulls; minimum speed.

102. Section 321.383 – Exceptions; slow vehicles identified.

103. Section 321.384 – When lighted lamps required.

104. Section 321.385 – Head lamps on motor vehicles.

105. Section 321.386 – Head lamps on motorcycles and motorized bicycles.

106. Section 321.387 – Rear lamps.

107. Section 321.388 – Illuminating plates.

108. Section 321.389 – Reflector requirement.

109. Section 321.390 – Reflector requirements.

110. Section 321.392 – Clearance and identification lights.

111. Section 321.393 – Color and mounting.

112. Section 321.394 – Lamp or flag on projecting load.

113. Section 321.395 – Lamps on parked vehicles.

114. Section 321.398 – Lamps on other vehicles and equipment.

115. Section 321.402 – Spot lamps.

116. Section 321.403 – Auxiliary driving lamps.

117. Section 321.404 – Signal lamps and signal devices.

118. Section 321.404A – Light-restricting devices prohibited.

119. Section 321.405 – Self-illumination.

120. Section 321.406 – Cowl lamps.

121. Section 321.408 – Back-up lamps.

122. Section 321.409 – Mandatory lighting equipment.

123. Section 321.415 – Required usage of lighting devices.

124. Section 321.417 – Single-beam road-lighting equipment.
125. Section 321.418 – Alternate road-lighting equipment.
126. Section 321.419 – Number of driving lamps required or permitted.
127. Section 321.420 – Number of lamps lighted.
128. Section 321.421 – Special restrictions on lamps.
129. Section 321.422 – Red light in front.
130. Section 321.423 – Flashing lights.
131. Section 321.430 – Brake, hitch, and control requirements.
132. Section 321.431 – Performance ability.
133. Section 321.432 – Horns and warning devices.
134. Section 321.433 – Sirens, whistles, and bells prohibited.
135. Section 321.434 – Bicycle sirens or whistles.
136. Section 321.436 – Mufflers, prevention of noise.
137. Section 321.437 – Mirrors.
138. Section 321.438 – Windshields and windows.
139. Section 321.439 – Windshield wipers.
140. Section 321.440 – Restrictions as to tire equipment.
141. Section 321.441 – Metal tires prohibited.
142. Section 321.442 – Projections on wheels.
143. Section 321.444 – Safety glass.
144. Section 321.445 – Safety belts and safety harnesses; use required.
145. Section 321.446 – Child restraint devices.
146. Section 321.449 – Motor carrier safety regulations.
147. Section 321.450 – Hazardous materials transportation.
148. Section 321.454 – Width of vehicles.
149. Section 321.455 – Projecting loads on passenger vehicles.
150. Section 321.456 – Height of vehicles; permits.
151. Section 321.457 – Maximum length.
152. Section 321.458 – Loading beyond front.
153. Section 321.460 – Spilling loads on highways.
154. Section 321.461 – Trailers and towed vehicles.
155. Section 321.462 – Drawbars and safety chains.
156. Section 321.463 – Maximum gross weight.
157. Section 321.465 – Weighing vehicles and removal of excess.
158. Section 321.466 – Increased loading capacity; reregistration.

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

(Code of Iowa, Sec. 321.255)

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

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

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

62.06 OBSTRUCTING VIEW AT INTERSECTIONS. It is unlawful to allow any tree, hedge, billboard, or other object to obstruct the view of an intersection by preventing persons from having a clear view of traffic approaching the intersection from cross streets. Any such obstruction is deemed a nuisance and in addition to the standard penalty may be abated in the manner provided by Chapter 50 of this Code of Ordinances.

62.07 ENGINE BRAKES AND COMPRESSION BRAKES.

1. It is unlawful for the driver of any vehicle to use or operate or cause to be used or operated within the City any engine brake, compression brake, or mechanical exhaust device designed to aid in the braking or deceleration of any vehicle that results in loud, unusual, or explosive noise from such vehicle, except in response to an imminent traffic accident.

2. The use of an engine brake, compression brake, or mechanical exhaust device designed to aid in braking or deceleration in such a manner so as to be audible at a distance of 300 feet from the motor vehicle shall constitute evidence of a *prima facie* violation of this section.

3. The scheduled fine for a violation of this section is one hundred dollars ($100.00).

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CHAPTER 63

SPEED REGULATIONS

63.01 General
63.02 State Code Speed Limits
63.03 Parks, Cemeteries and Parking Lots
63.04 Special Speed Restrictions
63.05 Minimum Speed

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

(Code of Iowa, Sec. 321.285)

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

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

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

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

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

(Code of Iowa, Sec. 321.290)

1. Special 20 MPH Speed Zones. A speed in excess of twenty (20) miles per hour is unlawful on any of the following designated streets:

   A. On Marshall Street.

   B. On Oak Street.

   C. On Cade Street.

   D. On Warren Street.

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

A. On Walnut Street from Dallas Street to Madison Street.

B. On Ellefson Drive. ***(Ord. 323 – Jul. 18 Supp.)***

3. Special 30 MPH Speed Zones. A speed in excess of thirty (30) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Osage Avenue from the railroad tracks to the south corporate limits;

B. On Cedar Street from Guthrie Street to the west corporate limits.

4. Special 35 MPH Speed Zones. A speed in excess of thirty-five (35) miles per hour is unlawful on any of the following designated streets or parts thereof.

A. On Guthrie Street from 855 Guthrie to 1206 Guthrie, when flashing lights are activated.

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

(Code of Iowa, Sec. 321.294)

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CHAPTER 64

TURNING REGULATIONS

64.01 Turning at Intersections
64.02 U-turns
64.03 Left Turn for Parking

64.01 TURNING AT INTERSECTIONS. The driver of a vehicle intending to turn at an intersection shall do so as follows:

(Code of Iowa, Sec. 321.311)

1. Both the approach for a right turn and a right turn shall be made as close as practical to the right-hand curb or edge of the roadway.

2. Approach for a left turn shall be made in that portion of the right half of the roadway nearest the centerline thereof and after entering the intersection the left turn shall be made so as to depart from the intersection to the right of the centerline of the roadway being entered.

3. Approach for a left turn from a two-way street into a one-way street shall be made in that portion of the right half of the roadway nearest the centerline thereof and by passing to the right of such centerline where it enters the intersection. A left turn from a one-way street into a two-way street shall be made by passing to the right of the centerline of the street being entered upon leaving the intersection.

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

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

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

– NONE –

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

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CHAPTER 65

STOP OR YIELD REQUIRED

65.01 Stop Required
65.02 Four-Way Stop Intersections
65.03 Three-Way Stop Intersections
65.04 Yield Required
65.05 School Stops
65.06 Stop Before Crossing Sidewalk
65.07 Stop When Traffic Is Obstructed
65.08 Yield to Pedestrians in Crosswalks

65.01 STOP REQUIRED. Every driver of a vehicle shall stop in accordance with the following:

(Code of Iowa, Sec. 321.345)

1. Adair Street. Vehicles traveling on Adair Street shall stop at Locust Street.

2. Adair Street. Vehicles traveling on Adair Street shall stop at Walnut Street.

3. Adair Street. Vehicles traveling on Adair Street shall stop at Elm Street.

4. Adair Street. Vehicles traveling north on Adair Street shall stop at Spruce Street.

5. Dallas Street. Vehicles traveling on Dallas Street shall stop at Elm Street.

6. Madison Street. Vehicles traveling on Madison Street shall stop at Walnut Street.

7. Madison Street. Vehicles traveling south on Madison Street shall stop at Elm Street.

8. Marshall Street. Vehicles traveling south on Marshall Street shall stop at Willow Street.

9. Polk Street. Vehicles traveling on Polk Street shall stop at Maple Street.

10. Polk Street. Vehicles traveling south on Polk Street shall stop at Walnut Street.

11. Warren Street. Vehicles traveling on Warren Street shall stop at Walnut Street.

12. Warren Street. Vehicles traveling south on Warren Street shall stop at Elm Street.

13. Warren Street. Vehicles traveling north on Warren Street shall stop at Spruce Street.

14. Cade Court. Vehicles traveling north on Cade Court shall stop at Spruce Street.

15. Elm Street. Vehicles traveling west on Elm Street shall stop at Guthrie Street.

16. Walnut Street. Vehicles traveling west on Walnut Street shall stop at Guthrie Street.

17. Locust Street. Vehicles traveling on Locust Street shall stop at Madison Street.

18. Locust Street. Vehicles traveling on Locust Street shall stop at Dallas Street.

19. Locust Street. Vehicles traveling west on Locust Street shall stop at Guthrie Street.

20. Locust Street. Vehicles traveling east on Locust Street shall stop at Warren Street.

21. Maple Street. Vehicles traveling on Maple Street shall stop at Dallas Street.

22. Maple Street. Vehicles traveling on Maple Street shall stop at Adair Street.

23. Maple Street. Vehicles traveling west on Maple Street shall stop at Guthrie Street.

24. Cherry Street. Vehicles traveling west on Cherry Street shall stop at Guthrie Street.

25. Cherry Street. Vehicles traveling east on Cherry Street shall stop at Adair Street.

26. Spruce Street. Vehicles traveling west on Spruce Street shall stop at Guthrie Street.

27. Ellefson Drive. Vehicles traveling west on Ellefson Drive shall stop at Guthrie Street.

28. Ash Street. Vehicles traveling on Ash Street will stop at Guthrie Street.

29. Boone Street. Vehicles traveling south on Boone Street will stop at Cedar Street.

30. Chestnut Street. Vehicles traveling south on Chestnut Street will stop at Cedar Street.

31. Willow Street. Vehicles traveling east on Willow Street will stop at Guthrie Street.

32. I-80 Off-ramp Westbound. Vehicles traveling westbound on the I-80 off-ramp shall stop at Highway 169. ***(Ord. 290 – Feb. 10 Supp.)***

33. I-80 Off-ramp Eastbound. Vehicles traveling eastbound on the I-80 off-ramp shall stop at Highway 169. ***(Ord. 290 – Feb. 10 Supp.)***

34. Sycamore Street. Vehicles traveling west on Sycamore Street shall stop at Dallas Street.

35. Sycamore Street. Vehicles traveling east on Sycamore Street shall stop at Madison Street.

36. Greene Street. Vehicles traveling north on Greene Street shall stop at Ash Street.

37. Greene Street. Vehicles traveling south on Greene Street shall stop at Willow Street.

38. Chestnut Street. Vehicles traveling east on Chestnut Street shall stop at Boone Street.

(Old #28 Deleted and New # 34-38 Added – Ord. 292 – Nov. 10 Supp.)

39. Cedar Street. Vehicles traveling east on Cedar Street shall stop at Guthrie Street. ***(Ord. 295 – May 11 Supp.)***

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

(Code of Iowa, Sec. 321.345)

1. Intersection of Maple Street and Madison Street;

2. Intersection of Walnut Street and Dallas Street.

65.03 THREE-WAY STOP INTERSECTIONS.

1. Spruce Street and Dallas Street. Vehicles approaching the intersection of Spruce Street and Dallas Street from the east, west and south shall stop before entering such intersection.

2. Spruce Street and Madison Street. Vehicles approaching the intersection of Spruce Street and Madison Street from the east, west and south shall stop before entering such intersection.

65.04 YIELD REQUIRED. Every driver of a vehicle shall yield in accordance with the following:

(Code of Iowa, Sec. 321.345)

- NONE -

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

(Code of Iowa, Sec. 321.249)

- NONE -

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

(Code of Iowa, Sec. 321.353)

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

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

(Code of Iowa, Sec. 321.327)

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CHAPTER 66

LOAD AND WEIGHT RESTRICTIONS

66.01 Temporary Embargo
66.02 Permits for Excess Size and Weight
66.03 Load Limits Upon Certain Streets
66.04 Load Limits on Bridges
66.05 Truck Route

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

(Code of Iowa, Sec. 321.471 & 472)

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

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

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

(Code of Iowa, Sec. 321.473 & 475)

1. Load limit of 17 tons GVWR on Osage Avenue. ***(Ord. 321 – Oct. 17 Supp.)***

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

(Code of Iowa, Sec. 321.471)

66.05 TRUCK ROUTE. Truck route regulations are established as follows:

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

(Code of Iowa, Sec. 321.473)

A. Elm Street from Guthrie Street to east corporate limits;

B. Spruce Street from Guthrie Street to east corporate limits;

C. Willow Street from Guthrie Street to west corporate limits;

D. Guthrie Street from north corporate limits to south corporate limits.

2. Deliveries Off Truck Route. Any motor vehicle weighing five (5) tons or more, when loaded or empty, having a fixed terminal, making a scheduled or definite stop within the City for the purpose of loading or unloading shall proceed over or upon the designated routes set out in this section to the nearest point of its scheduled or definite stop and shall proceed thereto, load or unload and return, by the most direct route to its point of departure from said designated route.

(Code of Iowa, Sec. 321.473)

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

(Code of Iowa, Sec. 321.473)

CHAPTER 67

PEDESTRIANS

67.01 Walking in Street
67.02 Hitchhiking
67.03 Pedestrian Crossing
67.04 Use Sidewalks

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

(Code of Iowa, Sec. 321.326)

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

(Code of Iowa, Sec. 321.331)

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

(Code of Iowa, Sec. 321.328)

67.04 USE SIDEWALKS. Where sidewalks are provided it is unlawful for any pedestrian to walk along and upon an adjacent street.

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CHAPTER 68

ONE-WAY TRAFFIC

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

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

– NONE –

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CHAPTER 69

PARKING REGULATIONS

69.01 Park Adjacent to Curb
69.02 Park Adjacent to Curb - One-way Street
69.03 Angle Parking
69.04 Angle Parking – Manner
69.05 Parking for Certain Purposes Illegal
69.06 Parking Prohibited
69.07 Persons With Disabilities Parking
69.08 No Parking Zones
69.09 Snow and Ice Removal
69.10 Snow Routes
69.11 Restricted Parking on Madison Street
69.12 No Semi Tractor or Trailer Parking on Ash Street

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

(Code of Iowa, Sec. 321.361)

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

(Code of Iowa, Sec. 321.361)

69.03 ANGLE PARKING. Angle or diagonal parking is permitted only in the following locations:

(Code of Iowa, Sec. 321.361)

1. Walnut Street, on the north side from Madison Street west boundary to 255 feet west.

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

(Code of Iowa, Sec. 321.361)

69.05 PARKING FOR CERTAIN PURPOSES ILLEGAL. No person shall park a vehicle upon public property for more than 48 hours, unless otherwise limited under the provisions of this chapter, or for any of the following principal purposes:

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

1. Sale. Displaying such vehicle for sale;

2. Repairing. For lubricating, repairing or for commercial washing of such vehicle except such repairs as are necessitated by an emergency;

3. Advertising. Displaying advertising;

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

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

1. Crosswalk. On a crosswalk.
(Code of Iowa, Sec. 321.358 [5])

2. Center Parkway. On the center parkway or dividing area of any divided street.
(Code of Iowa, Sec. 321.236 [1])

3. Mailboxes. Within twenty (20) feet on either side of a mailbox which is so placed and so equipped as to permit the depositing of mail from vehicles on the roadway.
(Code of Iowa, Sec. 321.236 [1])

4. Sidewalks. On or across a sidewalk.
(Code of Iowa, Sec. 321.358 [1])

5. Driveway. In front of a public or private driveway.
(Code of Iowa, Sec. 321.358 [2])

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

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

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

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

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

11. Excavations. Alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic.
(Code of Iowa, Sec. 321.358 [10])

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

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

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

14. Churches, Nursing Homes and Other Buildings. A space of fifty (50) feet is hereby reserved at the side of the street in front of any theatre, auditorium, hotel having more than twenty-five (25) sleeping rooms, hospital, nursing home, taxicab stand, bus depot, church, or other building where large assemblages of people are being held, within which space, when clearly marked as such, no motor vehicle shall be left standing, parked or stopped except in taking on or discharging passengers or freight, and then only for such length of time as is necessary for such purpose.

(Code of Iowa, Sec. 321.360)

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

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

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

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

17. In More Than One Space. In any designated parking space so that any part of the vehicle occupies more than one such space or protrudes beyond the markings designating such space.

18. Parking Between Curb and Lot Lines.

A. Parking on un-curbed streets. Parking, standing and driving is prohibited on unpaved areas in the front or side yards of property and in the area of the public way lying between the lot line and edge of the street. Parking is only allowed on existing gravel pads. The maintenance of any existing gravel pad or parking area in the public right-of-way shall be maintained solely at the owner's expense. Sidewalks are not considered paved areas where parking, standing or driving is permitted.

B. Parking on curbed streets. Parking, standing and driving is prohibited on unpaved areas in the front or side yards and between the curb and the property line. Sidewalks are not considered paved areas where parking, standing or driving is permitted.

(Subsection 18 – Ord. 335 – Nov. 18 Supp.)

69.07 PERSONS WITH DISABILITIES PARKING. The following regulations shall apply to the establishment and use of persons with disabilities parking spaces:

1. Establishment. Persons with disabilities parking spaces shall be established and designated in accordance with Chapter 321L of the Code of Iowa and Iowa Administrative Code, 661-18. No unauthorized person shall establish any on-street persons with disabilities parking space without first obtaining Council approval.

2. Improper Use. The following uses of a persons with disabilities parking space, located on either public or private property, constitute improper use of a persons with disabilities parking permit, which is a violation of this Code of Ordinances:

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

A. Use by an operator of a vehicle not displaying a persons with disabilities parking permit;

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

C. Use by a vehicle in violation of the rules adopted under Section 321L.8 of the Code of Iowa.

3. Wheelchair Parking Cones. No person shall use or interfere with a wheelchair parking cone in violation of the following:

A. A person issued a persons with disabilities parking permit must comply with the requirements of Section 321L.2A (1) of the Code of Iowa when utilizing a wheelchair parking cone.

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

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

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

1. Guthrie Street (U.S. Highway 169) on both sides from the south corporate limits to the north corporate limits;

2. Spruce Street on both sides from Guthrie Street to east corporate limits;

3. Dallas Street on the west side from Spruce Street south to Locust Street;

4. Madison Street on the west side from Walnut Street to Spruce Street;

5. Elm Street on both sides from Osage Avenue to Guthrie Street;

6. Oak Street on the north side in its entirety;

7. Adair Street on the east side from the Little Bridge Parking area south of Elm Street to Spruce Street;

8. Chestnut Street on the north side in its entirety;

9. Polk Street on the west side from Walnut Street north to Holiday Terrace Mobile Home Park;

10. Willow Street on both sides from Guthrie Street to west corporate limits;

11. Cedar Street from Guthrie Street to west corporate limits;

12. Osage Avenue from Elm Street south to the corporate limits;

13. Ellefson Drive on both sides in its entirety;

14. Ash Street on both sides in its entirety;

15. Adair Street on both sides north of Spruce Street; ***(Ord. 320 – Oct. 17 Supp.)***

16. Greene Street on both sides from Willow Street to Ash Street.

(Ord. 291 – Nov. 10 Supp.)

69.09 SNOW AND ICE REMOVAL. During the period of time when snow and/or ice is falling and for a period of forty-eight (48) hours after cessation of snowfall and/or icefall, it is unlawful for any person to park, abandon, or leave unoccupied or unattended any vehicle on any public street, alley, or public off-street parking area.

(Code of Iowa, 321.236[1])

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

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

69.11 RESTRICTED PARKING ON MADISON STREET. No person shall park a motor vehicle wider than 7 feet 6 inches in width and no person shall park a non-motorized vehicle (trailer) upon Madison Street from Spruce Street to Locust Street.

(Ord. 300 – Feb. 13 Supp.)

69.12 NO SEMI TRACTOR OR TRAILER PARKING ON ASH STREET OR ADAIR STREET. No person shall park a semi tractor or trailer upon Ash Street or upon Adair Street. The fine for such violation shall be in the amount of $100.00. ***(Ord. 312 – Apr. 16 Supp.)***

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CHAPTER 70

TRAFFIC CODE ENFORCEMENT PROCEDURES

70.01 Arrest or Citation
70.02 Scheduled Violations
70.03 Parking Violations: Alternate
70.04 Parking Violations: Vehicle Unattended
70.05 Presumption in Reference to Illegal Parking
70.06 Impounding Vehicles

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

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

2. Issue Citation. Without arresting the person, prepare in quintuplicate a combined traffic citation and complaint as adopted by the Iowa Commissioner of Public Safety, or issue a uniform citation and complaint utilizing a State-approved computerized device.

(Code of Iowa, Sec. 805.6 & 321.485)

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

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

70.03 PARKING VIOLATIONS: ALTERNATE. Uncontested violations of parking restrictions imposed by this Code of Ordinances shall be charged upon a simple notice of a fine payable at the office of the City Clerk. The simple notice of a fine shall be in the amount of five dollars ($5.00) for all violations except snow route parking violations, improper use of a persons with disabilities parking permit and violation of the no semi tractor or trailer parking on Ash Street and Adair Street Ordinance. If such fine is not paid within thirty (30) days, it shall be increased by five dollars ($5.00). The simple notice of a fine for snow route parking violations[†] is twenty-five dollars ($25.00), and the simple notice of a fine for improper use of a persons with disabilities parking permit is one hundred dollars ($100.00) and the simple notice of fine for parking a semi tractor or trailer upon Ash Street or Adair Street is one hundred dollars ($100.00). The simple notice of a fine for parking violations may be issued by a member of the Public Works Department of the City or by the Police Department.

(Ord. 313 – Apr. 16 Supp.)

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

70.04 PARKING VIOLATIONS: VEHICLE UNATTENDED. When a vehicle is parked in violation of any provision of the Traffic Code, and the driver is not present, the notice of fine or citation as herein provided shall be attached to the vehicle in a conspicuous place.

[†] **EDITOR'S NOTE:** A snow route parking violation occurs when the driver of a vehicle impedes or blocks traffic on a designated snow route. (See Section 69.10.)

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

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

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

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

1. Disabled Vehicle. When a vehicle is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle are by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.

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

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

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

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

4. Parked Over Limited Time Period. When any vehicle is left parked for a continuous period in violation of any limited parking time. If the owner can be located, the owner shall be given an opportunity to remove the vehicle.

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

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

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

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CHAPTER 75

ALL-TERRAIN VEHICLES AND SNOWMOBILES

75.01 Purpose
75.02 Definitions
75.03 General Regulations
75.04 Operation of Snowmobiles
75.05 Operation of All-Terrain Vehicles
75.06 Negligence
75.07 Accident Reports

75.01 PURPOSE. The purpose of this chapter is to regulate the operation of all-terrain vehicles and snowmobiles within the City.

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

1. "All-terrain vehicle" or "ATV" means a motorized flotation-tire vehicle, with not less than three and not more than six low pressure tires, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand (1,000) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control.

(Code of Iowa, Sec. 321I.1)

2. "Off-road motorcycle" means a two-wheeled motor vehicle that has a seat or saddle designed to be straddled by the operator and handlebars for steering control and that is intended by the manufacturer for use on natural terrain. "Off-road motorcycle" includes a motorcycle that was originally issued a certificate of title and registered for highway use under Chapter 321 of the *Code of Iowa*, but which contains design features that enable operation over natural terrain. An operator of an off-road motorcycle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

(Code of Iowa, Sec. 321I.1)

3. "Off-road utility vehicle" means a motorized flotation-tire vehicle, with not less than four and not more than eight low-pressure tires, that is limited in engine displacement to less than one thousand five hundred (1,500) cubic centimeters and in total dry weight to not more than one thousand eight hundred (1,800) pounds and that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. An operator of an off-road utility vehicle is also subject to the provisions of this chapter governing the operation of all-terrain vehicles.

(Code of Iowa, Sec. 321I.1)

4. "Snowmobile" means a motorized vehicle weighing less than one thousand (1,000) pounds which uses sled-type runners or skis, endless belt-type tread with a width of forty-eight (48) inches or less, or any combination of runners, skis, or tread, and is designed for travel on snow or ice. "Snowmobile" does not include an all-terrain vehicle which has been altered or equipped with runners, skis, belt-type tracks, or treads.

(Code of Iowa, Sec. 321G.1)

75.03 GENERAL REGULATIONS. No person shall operate an ATV, off-road motorcycle or off-road utility vehicle within the City in violation of Chapter 321I of the *Code of Iowa* or a snowmobile within the City in violation of the provisions of Chapter 321G of the

Code of Iowa or in violation of rules established by the Natural Resource Commission of the Department of Natural Resources governing their registration, equipment and manner of operation.

(Code of Iowa, Ch. 321G & Ch. 321I)

75.04 OPERATION OF SNOWMOBILES. The operators of snowmobiles shall comply with the following restrictions as to where snowmobiles may be operated within the City:

1. Streets. Snowmobiles shall be operated only upon streets which have not been plowed during the snow season and on such other streets as may be designated by resolution of the Council.

(Code of Iowa, Sec. 321G.9[4a])

2. Exceptions. Snowmobiles may be operated on prohibited streets only under the following circumstances:

A. Emergencies. Snowmobiles may be operated on any street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.

(Code of Iowa, Sec. 321G.9[4c])

B. Direct Crossing. Snowmobiles may make a direct crossing of a prohibited street provided all of the following occur:

(1) The crossing is made at an angle of approximately ninety degrees (90°) to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;

(2) The snowmobile is brought to a complete stop before crossing the street;

(3) The driver yields the right-of-way to all on-coming traffic which constitutes an immediate hazard; and

(4) In crossing a divided street, the crossing is made only at an intersection of such street with another street.

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

3. Railroad Right-of-Way. Snowmobiles shall not be operated on an operating railroad right-of-way. A snowmobile may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321G.13[1h])

4. Trails. Snowmobiles shall not be operated on all-terrain vehicle trails except where so designated.

(Code of Iowa, Sec. 321G.9[4f])

5. Parks and Other City Land. Snowmobiles shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City. A snowmobile shall not be operated on any City land without a snow cover of at least one-tenth of one inch.

6. Sidewalk or Parking. Snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or

property line commonly referred to as the "parking" except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.

75.05 OPERATION OF ALL-TERRAIN VEHICLES. The operators of ATVs shall comply with the following restrictions as to where ATVs may be operated within the City:

1. Streets. ATVs may be operated on streets only in accordance with Section 321.234A of the *Code of Iowa* or on such streets as may be designated by resolution of the Council for the sport of driving ATVs.

(Code of Iowa, Sec. 321I.10[1 & 3])

2. Trails. ATVs shall not be operated on snowmobile trails except where designated.

(Code of Iowa, Sec. 321I.10[4])

3. Railroad Right-of-way. ATVs shall not be operated on an operating railroad right-of-way. An ATV may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.

(Code of Iowa, Sec. 321I.14[1h])

4. Parks and Other City Land. ATVs shall not be operated in any park, playground or upon any other City-owned property without the express permission of the City.

5. Sidewalk or Parking. ATVs shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the "parking."

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

(Code of Iowa, Sec. 321G.18 & 321I.19)

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

(Code of Iowa, Sec. 321G.10 & 321I.11)

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CHAPTER 76

BICYCLE REGULATIONS

76.01 Scope of Regulations
76.02 Traffic Code Applies
76.03 Double Riding Restricted
76.04 Two Abreast Limit
76.05 Bicycle Paths
76.06 Speed
76.07 Emerging from Alley or Driveway
76.08 Carrying Articles
76.09 Riding on Sidewalks
76.10 Towing
76.11 Improper Riding
76.12 Parking
76.13 Equipment Requirements
76.14 Special Penalty

76.01 SCOPE OF REGULATIONS. These regulations shall apply whenever a bicycle is operated upon any street or upon any public path set aside for the exclusive use of bicycles, subject to those exceptions stated herein.

(Code of Iowa, Sec. 321.236 [10])

76.02 TRAFFIC CODE APPLIES. Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of the State declaring rules of the road applicable to vehicles or by the traffic code of the City applicable to the driver of a vehicle, except as to those provisions which by their nature can have no application. Whenever such person dismounts from a bicycle the person shall be subject to all regulations applicable to pedestrians.

(Code of Iowa, Sec. 321.234)

76.03 DOUBLE RIDING RESTRICTED. A person propelling a bicycle shall not ride other than astride a permanent and regular seat attached thereto. No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Code of Iowa, Sec. 321.234 [3 and 4])

76.04 TWO ABREAST LIMIT. Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles. All bicycles ridden on the roadway shall be kept to the right and shall be operated as near as practicable to the right-hand edge of the roadway.

(Code of Iowa, Sec. 321.236 [10])

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

(Code of Iowa, Sec. 321.236 [10])

76.06 SPEED. No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Code of Iowa, Sec. 321.236 [10])

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

(Code of Iowa, Sec. 321.236 [10])

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

(Code of Iowa, Sec. 321.236 [10])

76.09 RIDING ON SIDEWALKS. The following shall apply to riding bicycles on sidewalks:

1. Business District. No person shall ride a bicycle upon a sidewalk within the Business District, as defined in Section 60.02(1) of this Code of Ordinances.

(Code of Iowa, Sec. 321.236 [10])

2. Other Locations. When signs are erected on any sidewalk or roadway prohibiting the riding of bicycles thereon by any person, no person shall disobey the signs.

(Code of Iowa, Sec. 321.236 [10])

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

(Code of Iowa, Sec. 321.236 [10])

76.10 TOWING. It is unlawful for any person riding a bicycle to be towed or to tow any other vehicle upon the streets of the City unless the vehicle is manufactured for such use.

76.11 IMPROPER RIDING. No person shall ride a bicycle in an irregular or reckless manner such as zigzagging, stunting, speeding or otherwise so as to disregard the safety of the operator or others.

76.12 PARKING. No person shall park a bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb, in such a manner as to afford the least obstruction to pedestrian traffic.

(Code of Iowa, Sec. 321.236 [10])

76.13 EQUIPMENT REQUIREMENTS. Every person riding a bicycle shall be responsible for providing and using equipment as provided herein:

1. Lamps Required. Every bicycle when in use at nighttime shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least three hundred (300) feet to the front and with a lamp on the rear exhibiting a red light visible from a distance of three hundred (300) feet to the rear except that a red reflector on the rear, of a type which shall be visible from all distances from fifty (50) feet to three hundred (300) feet to the rear when directly in front of lawful upper beams of headlamps on a motor vehicle, may be used in lieu of a rear light.

(Code of Iowa, Sec. 321.397)

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

(Code of Iowa, Sec. 321.236 [10])

76.14 SPECIAL PENALTY. Any person violating the provisions of this chapter may, in lieu of the scheduled fine for bicyclists or standard penalty provided for violations of the Code

of Ordinances, allow the person's bicycle to be impounded by the City for not less than five (5) days for the first offense, ten (10) days for a second offense and thirty (30) days for a third offense.

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CHAPTER 77

GOLF CARTS

77.01 Purpose
77.02 Golf Cart Defined
77.03 Operator Requirements
77.04 Safety Equipment Required
77.05 Prohibited Areas
77.06 Golf Cart Permit Requirement
77.07 Law Enforcement
77.08 Accident Reports
77.09 Scheduled Violations/Fines

77.01 PURPOSE. The purpose of this chapter is to permit the operation of golf carts on streets in the City as authorized by Section 321.247 of the *Code of Iowa*.

77.02 GOLF CART DEFINED. A golf cart is defined as:

A gasoline or electric motored device having at least three wheels; adequate seating space for the operator/driver and/or passengers; storage space for golf equipment; incapable of exceeding 20 miles per hour; and having been factory manufactured for the intended use as a golf cart.

77.03 OPERATOR REQUIREMENTS. All operators of golf carts upon City streets within the City limits of De Soto must have a valid driver's license and be at least 16 years of age. Golf carts are allowed to operate on said roadways from sunrise to sunset only and must be properly insured with proof of insurance retained on the golf cart. Golf carts are not allowed to operate on City streets if the ambient air temperature is less than forty degrees Fahrenheit and/or other conditions that may exist making travel hazardous for the operator and/or passengers. Operators are accountable for all passengers on the golf cart and will not allow reckless or dangerous behavior by passengers on said vehicles. Golf carts shall not be driven on the private property of others (without their express written consent) and shall not be parked on the City terrace or other City property not normally afforded vehicular parking privileges.

77.04 SAFETY EQUIPMENT REQUIRED. All golf carts used on City streets shall have the following safety equipment:

1. A slow moving vehicle sign (as defined by State law).

2. A "bicycle" flag with a pole height of not less than five feet and a flag consisting of orange, green or yellow reflective material and size of not less than 54 square inches in surface area.

3. Operational brakes.

77.05 PROHIBITED AREAS. Golf carts shall not be operated upon any City street which is a primary road extension through the City, but shall be allowed to cross a City street which is a primary road extension through the City. Golf carts are not allowed on sidewalks or the City parking or terrace located between the street and sidewalk.

77.06 GOLF CART PERMIT REQUIREMENT. No person shall operate a golf cart on any City street unless the golf cart possesses a City of De Soto golf cart permit issued by the City of De Soto through the City Clerk's office. The annual $25.00 golf cart permit can be obtained before January 1st for the next calendar year and shall expire on December 31st of

that year. The purchaser of said permit must be the golf cart owner; at least 16 years of age at the time of permit purchase; and be able to provide proof of appropriate liability insurance at the time of permit purchase. The golf cart shall be subject to inspection by the De Soto Police Department at the time of permit purchase or within 48 hours of said purchase. The permit application shall provide complete owner information and shall be retained by the City Clerk and recorded with the De Soto Police Department. The permit sticker shall be clearly displayed on the right rear fender of the golf cart and must not be obstructed from clear visibility.

77.07 LAW ENFORCEMENT. The De Soto Police Department shall administer all municipal, state and federal laws regarding the safe and law abiding use of a golf cart upon City streets within the City of De Soto. The operator of a golf cart upon a City street shall observe all traffic laws. The golf cart shall not exceed 20 miles per hour upon any City street within De Soto. The operator of a golf cart shall be subject to criminal and civil liability for violations of State and City laws in the same manner as the operator of a registered vehicle.

77.08 ACCIDENT REPORTS. The operator or the permitted owner of the golf cart shall immediately notify the City of De Soto Police Department whenever a golf cart is involved in an accident resulting in injury or death to anyone; or property damage amounting to more than $1,000.00, shall file an accident report within 48 hours in accordance with Iowa law.

77.09 SCHEDULED VIOLATIONS/FINES. A violation of this chapter may be charged as a municipal infraction or as a simple misdemeanor as defined by State code. The civil penalty assessed for a first offense shall be $50.00; a second offense $100.00; and a third offense and each subsequent $300.00.

(Ch. 77 – Ord. 308 – May 15 Supp.)

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CHAPTER 80

ABANDONED VEHICLES

80.01 Definitions
80.02 Authority to Take Possession of Abandoned Vehicles
80.03 Notice by Mail
80.04 Notification in Newspaper
80.05 Fees for Impoundment
80.06 Disposal of Abandoned Vehicles
80.07 Disposal of Totally Inoperable Vehicles
80.08 Proceeds from Sales
80.09 Duties of Demolisher

80.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 321.89[1])

1. "Abandoned vehicle" means any of the following:

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

   B. A vehicle that has remained illegally on public property for more than 24 hours.

   C. A vehicle that has been unlawfully parked or placed on private property without the consent of the owner or person in control of the property for more than 24 hours.

   D. A vehicle that has been legally impounded by order of a police authority and has not been reclaimed for a period of ten (10) days. However, a police authority may declare the vehicle abandoned within the ten-day period by commencing the notification process.

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

   F. A vehicle that has been impounded pursuant to Section 321J.4B of the *Code of Iowa* by order of the court and whose owner has not paid the impoundment fees after notification by the person or agency responsible for carrying out the impoundment order.

2. "Demolisher" means a person licensed under Chapter 321H of the *Code of Iowa* whose business it is to convert a vehicle to junk, processed scrap or scrap metal, or otherwise to wreck, or dismantle vehicles.

3. "Garage keeper" means any operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of motor vehicles.

4. "Police authority" means the Iowa state patrol or any law enforcement agency of a county or city.

80.02 AUTHORITY TO TAKE POSSESSION OF ABANDONED VEHICLES. A police authority, upon the authority's own initiative or upon the request of any other authority having the duties of control of highways or traffic, shall take into custody an abandoned vehicle on public property and may take into custody any abandoned vehicle on private property. The police authority may employ its own personnel, equipment, and facilities or

hire a private entity, equipment, and facilities for the purpose of removing, preserving, storing, or disposing of abandoned vehicles. A property owner or other person in control of private property may employ a private entity which is a garage keeper (as defined in Section 80.01) to dispose of an abandoned vehicle, and the private entity may take into custody the abandoned vehicle without a police authority's initiative. If a police authority employs a private entity to dispose of abandoned vehicles, the police authority shall provide the private entity with the names and addresses of the registered owners, all lienholders of record, and any other known claimant to the vehicle or the personal property found in the vehicle.

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

80.03 NOTICE BY MAIL. The police authority or private entity that takes into custody an abandoned vehicle shall notify, within twenty (20) days, by certified mail, the last known registered owner of the vehicle, all lienholders of record, and any other known claimant to the vehicle or to personal property found in the vehicle, addressed to the parties' last known addresses of record, that the abandoned vehicle has been taken into custody. Notice shall be deemed given when mailed. The notice shall describe the year, make, model and vehicle identification number of the vehicle, describe the personal property found in the vehicle, set forth the location of the facility where the vehicle is being held, and inform the persons receiving the notice of their right to reclaim the vehicle and personal property within ten (10) days after the effective date of the notice upon payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody and upon payment of the costs of the notice. The notice shall also state that the failure of the owner, lienholders or claimants to exercise their right to reclaim the vehicle or personal property within the time provided shall be deemed a waiver by the owner, lienholders and claimants of all right, title, claim and interest in the vehicle or personal property and that failure to reclaim the vehicle or personal property is deemed consent to the sale of the vehicle at a public auction or disposal of the vehicle to a demolisher and to disposal of the personal property by sale or destruction. If the abandoned vehicle was taken into custody by a private entity without a police authority's initiative, the notice shall state that the private entity may claim a garage keeper's lien as described in Section 321.90 of the *Code of Iowa*, and may proceed to sell or dispose of the vehicle. If the abandoned vehicle was taken into custody by a police authority or by a private entity hired by a police authority, the notice shall state that any person claiming rightful possession of the vehicle or personal property who disputes the planned disposition of the vehicle or property by the police authority or private entity or of the assessment of fees and charges provided by this section may ask for an evidentiary hearing before the police authority to contest those matters. If the persons receiving notice do not ask for a hearing or exercise their right to reclaim the vehicle or personal property within the ten-day reclaiming period, the owner, lienholders or claimants shall no longer have any right, title, claim, or interest in or to the vehicle or the personal property. A court in any case in law or equity shall not recognize any right, title, claim, or interest of the owner, lienholders or claimants after the expiration of the ten-day reclaiming period.

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

80.04 NOTIFICATION IN NEWSPAPER. If it is impossible to determine with reasonable certainty the identity and addresses of the last registered owner and all lienholders, notice by one publication in one newspaper of general circulation in the area where the vehicle was abandoned shall be sufficient to meet all requirements of notice under Section 80.03. The published notice may contain multiple listings of abandoned vehicles and personal property but shall be published within the same time requirements and contain the same information as prescribed for mailed notice in Section 80.03.

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

80.05 FEES FOR IMPOUNDMENT. The owner, lienholder, or claimant shall pay three dollars ($3.00) for each day within the reclaiming period plus towing charges, if stored by the City, or towing and storage fees, if stored in a public garage, whereupon said vehicle shall be released. The amount of towing charges, and the rate of storage charges by privately owned garages, shall be established by such facility.

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

80.06 DISPOSAL OF ABANDONED VEHICLES. If an abandoned vehicle has not been reclaimed as provided herein, the police authority or private entity shall make a determination as to whether or not the motor vehicle should be sold for use upon the highways, and shall dispose of the motor vehicle in accordance with State law.

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

80.07 DISPOSAL OF TOTALLY INOPERABLE VEHICLES. The City or any person upon whose property or in whose possession is found any abandoned motor vehicle, or any person being the owner of a motor vehicle whose title certificate is faulty, lost or destroyed, may dispose of such motor vehicle to a demolisher for junk, without a title and without notification procedures, if such motor vehicle lacks an engine or two or more wheels or other structural part which renders the vehicle totally inoperable. The police authority shall give the applicant a certificate of authority. The applicant shall then apply to the County Treasurer for a junking certificate and shall surrender the certificate of authority in lieu of the certificate of title.

(Code of Iowa, Sec. 321.90[2e])

80.08 PROCEEDS FROM SALES. Proceeds from the sale of any abandoned vehicle shall be applied to the expense of auction, cost of towing, preserving, storing, and notification required, in accordance with State law. Any balance shall be held for the owner of the motor vehicle or entitled lienholder for ninety (90) days, and then shall be deposited in the State Road Use Tax Fund. Where the sale of any vehicle fails to realize the amount necessary to meet costs the police authority shall apply for reimbursement from the Department of Transportation.

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

80.09 DUTIES OF DEMOLISHER. Any demolisher who purchases or otherwise acquires an abandoned motor vehicle for junk shall junk, scrap, wreck, dismantle, or otherwise demolish such motor vehicle. A demolisher shall not junk, scrap, wreck, dismantle, or demolish a vehicle until the demolisher has obtained the junking certificate issued for the vehicle.

(Code of Iowa, Sec. 321.90[3a])

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CHAPTER 90

WATER SERVICE SYSTEM

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90.18 Shutting off Water Supply
90.19 Operation of Curb Valve and Hydrants
90.20 Mayor May Restrict Use of Water Service
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90.01 DEFINITIONS. The following terms are defined for use in the chapters in this Code of Ordinances pertaining to the Water Service System:

1. "Combined service account" means a customer service account for the provision of two or more utility services.

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

3. "Superintendent" means the Public Works Superintendent of the City or any duly authorized assistant, agent or representative.

4. "Water main" means a water supply pipe provided for public or community use.

5. "Water service pipe" means the pipe from the water main to the building served.

6. "Water system" or "water works" means all public facilities for securing, collecting, storing, pumping, treating and distributing water.

90.02 SUPERINTENDENT'S DUTIES. The Superintendent shall supervise the installation of water service pipes and their connection to the water main and enforce all regulations pertaining to water services in the City in accordance with this chapter. This chapter shall apply to all replacements of existing water service pipes as well as to new ones. The Superintendent shall make such rules, not in conflict with the provisions of this chapter, as may be needed for the detailed operation of the water system, subject to the approval of the Council. In the event of an emergency the Superintendent may make temporary rules for the protection of the system until due consideration by the Council may be had.

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

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

90.04 ABANDONED CONNECTIONS. When an existing water service is abandoned or a service is renewed with a new tap in the main, all abandoned connections with the mains shall be turned off at the corporation stop and made absolutely watertight.

90.05 PERMIT. Before any person makes a connection with the public water system, a written permit must be obtained from the City. The application for the permit shall include a legal description of the property, the name of the property owner, the name and address of the person who will do the work, and the general uses of the water. If the proposed work meets all the requirements of this chapter and if all fees required under this chapter have been paid, the permit shall be issued. Work under any permit must be completed within sixty (60) days after the permit is issued, except that when such time period is inequitable or unfair due to conditions beyond the control of the person making the application, an extension of time within which to complete the work may be granted. The permit may be revoked at any time for any violation of these chapters.

90.06 CONNECTION CHARGE. Before any permit is issued the person who makes the application shall pay to the Clerk a connection charge in the amount of two hundred dollars ($200.00) to reimburse the City for costs borne by the City in making water service available to the property served.

(Code of Iowa, Sec. 384.84)

90.07 COMPLIANCE WITH PLUMBING CODE. The installation of any water service pipe and any connection with the water system shall comply with all pertinent and applicable provisions, whether regulatory, procedural or enforcement provisions, of the *International Plumbing Code* and the *City of De Soto Standard Specifications for Street and Utility Improvements*.

90.08 PLUMBER REQUIRED. All installations of water service pipes and connections to the water system shall be made by a plumber licensed by the State.

90.09 EXCAVATIONS. All trench work, excavation and backfilling required in making a connection shall be performed in accordance with the *City of De Soto Standard Specifications for Street and Utility Improvements*.

90.10 TAPPING MAINS. All taps into water mains shall be made by or under the direct supervision of the Superintendent and in accord with the following:

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

1. Independent Services. No more than one house, building or premises shall be supplied from one tap unless special written permission is obtained from the Superintendent and unless provision is made so that each house, building or premises may be shut off independently of the other.

2. Sizes and Location of Taps. All mains six (6) inches or less in diameter shall receive no larger than a ¾-inch tap. All mains of over six inches in diameter shall receive no larger than a one-inch tap. Where a larger connection than a one-inch tap is desired, two or more small taps or saddles shall be used, as the Superintendent shall order. All taps in the mains shall be made in the top half of the pipe, at least eighteen (18) inches apart. No main shall be tapped nearer than two (2) feet of the joint in the main.

3. Corporation Stop. A brass corporation stop, of the pattern and weight approved by the Superintendent, shall be inserted in every tap in the main. The corporation stop in the main shall be of the same size as the service pipe.

4. Location Record. An accurate and dimensional sketch showing the exact location of the tap shall be filed with the Superintendent in such form as the Superintendent shall require.

90.11 INSTALLATION OF WATER SERVICE PIPE. Water service pipes from the main to the meter setting shall be Type K copper. The use of any other pipe material for the service line shall first be approved by the Superintendent. Pipe must be laid sufficiently waving, and to such depth, as to prevent rupture from settlement or freezing.

90.12 RESPONSIBILITY FOR WATER SERVICE PIPE. All costs and expenses incident to the installation, connection and maintenance of the water service pipe from the main to the building served shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation or maintenance of said water service pipe.

90.13 FAILURE TO MAINTAIN. When any portion of the water service pipe or curb valve is in need of repair, the property owner shall be notified and given a specific time period in which to repair the same. If the property owner fails to perform such repairs within the specified time period, the City shall shut off the water supply and have the repairs made. Water service shall not be restored until all costs for such repairs have been paid to the City. Alternatively, the City may do the work and assess the costs thereof to the property.

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

90.14 CURB VALVE. There shall be installed within the public right-of-way a main shut-off valve on the water service pipe of a pattern approved by the Superintendent. The shut-off valve shall be constructed to be visible and even with the pavement or ground. The curb valve shall not be located in or under driveways, sidewalks or other improvements. If the curb valve is subsequently located in or covered by driveways, sidewalks or other improvements, it shall be the responsibility of the current customer to relocate it. If the customer fails to do so, the City may disconnect the water service until the customer complies, or the City may relocate the curb value and assess the cost to the property owner.

90.15 INTERIOR VALVE. There shall be installed a shut-off valve 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. Where one service pipe supplies more than one customer within the building, there shall be separate valves for each such customer so that service may be shut off for one without interfering with service to the others.

90.16 INSPECTION AND APPROVAL. All water service pipes and their connections to the water system must be inspected and approved in writing by the Superintendent before they are covered, and the Superintendent shall keep a record of such approvals. If the Superintendent refuses to approve the work, the plumber or property owner must proceed immediately to correct the work. Every person who uses or intends to use the municipal water system shall permit the Superintendent to enter the premises to inspect or make necessary alterations or repairs at all reasonable hours and on proof of authority.

90.17 COMPLETION BY THE CITY. Should any excavation be left open or only partly refilled for twenty-four (24) hours after the water service pipe is installed and connected with

the water system, or should the work be improperly done, the City shall have the right to finish or correct the work, and the Council shall assess the costs to the property owner or the plumber. If the plumber is assessed, the plumber must pay the costs before receiving another permit, and the plumber's bond or cash deposit shall be security for the assessment. If the property owner is assessed, such assessment may be collected with and in the same manner as general property taxes.

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

90.18 SHUTTING OFF WATER SUPPLY. The Superintendent may shut off the supply of water to any customer because of any violation of the regulations contained in these Water Service System chapters that is not being contested in good faith. The supply shall not be turned on again until all violations have been corrected and the Superintendent has ordered the water to be turned on.

90.19 OPERATION OF CURB VALVE AND HYDRANTS. It is unlawful for any person except the Superintendent to turn water on at the curb valve, and no person, unless specifically authorized by the City, shall open or attempt to draw water from any fire hydrant for any purpose whatsoever.

90.20 MAYOR MAY RESTRICT USE OF WATER SERVICE. It is declared that, because of conditions that may prevail in the City, the general welfare requires that the water resources available to the City be put to the maximum beneficial use to the extent to which they are capable when conditions dictate conservation of water supply. The Mayor is authorized and directed to implement restrictions on water use upon the determination that conservation of water is necessary to protect the public welfare and safety. The provisions of this section apply to all persons, customers and property served by the De Soto Water Utility wherever situated. No customer of the water utility shall knowingly make, cause, use or permit the use of water from the City for residential, commercial industrial, agricultural, governmental or any other purpose in a manner contrary to any restriction which is in effect pursuant to action taken by the Mayor in accordance with the provisions of the section. Upon implementation of restrictions of water use pursuant to this section, the Mayor shall cause to be posted the restrictions at the places designated for posting in Section 18.05 of this Code of Ordinances, and the restrictions shall be mailed to City water customers of record. Should the Mayor give personal notification to a water utility customer of the restrictions imposed and the water utility customer does not immediately comply with said restrictions or should the Mayor or other City personnel become aware of a violation of the restrictions on water use after said restrictions have been posted and mailed, the Mayor may cause said water utility customer's water service to be disconnected immediately.

90.21 BACKFLOW PREVENTION.

1. Backflow or Back-siphonage Devices Required.

   A. Water customers shall prevent pollutants and contaminants from entering their potable water supply system or the City's distribution mains by backflow or back-siphonage.

   B. All water-using devices must be so designed that back-siphonage or backflow to the system cannot occur.

   C. Where harmful contaminants or pollutants are used with any device or process connected to the water system, the water customer must install and

maintain a reduced pressure backflow prevention device approved by the City.

D. All permanently installed underground sprinkling systems shall contain a reduced pressure backflow prevention device approved by the City and so designed that back-siphonage or backflow to the City's system cannot occur.

2. Required Installation. An approved backflow prevention device shall be installed at the water customer's expense under the following circumstances:

A. For new plants or facilities described under subsection 1(C) or (D) hereof when constructed.

B. For existing plants or facilities described under subsection 1(C) or (D) hereof when major plumbing changes are made.

C. For any new or existing residence, plant or facility where a dangerous or potentially dangerous condition is found and where such installation is ordered by the City's Public Water Works personnel.

3. Unlawful to Interconnect. It is unlawful to interconnect, in any manner, the municipal water supply to any other source of water.

4. Inspection and Maintenance. Customers shall have the responsibility for maintaining their backflow prevention devices in good working order. Periodic testing of the reduced pressure backflow prevention devices may be done by the City at the appropriate intervals as determined by the City Public Works personnel and at such charges as may be established by the City Council. Testing may be requested by the customer for any reduced pressure backflow prevention device which the customer has reason to believe is not in good working order.

5. Customer Noncompliance. A customer's water service may be discontinued by the City in the case of noncompliance with any provision of this section. Noncompliance includes, but is not limited to, the following:

A. Refusal to allow City personnel access to the property to inspect for purposes of this section.

B. Removal of a backflow prevention assembly which has been required by City personnel.

C. Bypassing of a backflow prevention assembly which has been required by City personnel.

D. Providing inadequate backflow prevention when cross connections exist.

E. Failure to install a backflow prevention assembly which has been required by City personnel.

F. Failure to test and/or properly repair a backflow prevention assembly as required by City personnel.

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CHAPTER 91

WATER METERS

91.01 Purpose
91.02 Water Use Metered
91.03 Fire Sprinkler Systems- Exception
91.04 Location of Meters
91.05 Meter Setting
91.06 Meter Repairs
91.07 Right of Entry
91.08 Accuracy Test

91.01 PURPOSE. The purpose of this chapter is to encourage the conservation of water and facilitate the equitable distribution of charges for water service among customers.

91.02 WATER USE METERED. All water furnished customers shall be measured through meters furnished by the City and installed by the City.

91.03 FIRE SPRINKLER SYSTEMS - EXCEPTION. Fire sprinkler systems may be connected to water mains by direct connection without meters under the direct supervision of the Superintendent. No open connection can be incorporated in the system, and there shall be no valves except a main control valve at the entrance to the building which must be sealed open.

91.04 LOCATION OF METERS. All meters shall be so located that they are easily accessible to meter readers and repairmen and protected from freezing. If the meter location is not readily accessible to City personnel, the customer shall be responsible to make the meter readily accessible or to arrange with City personnel to have the meter relocated at the customer's expense. Should a customer fail to provide ready access to the water meter, upon being notified by the City to do so, the City may discontinue water service to the customer until the customer complies.

91.05 METER SETTING. The property owner shall provide all necessary piping and fittings for proper setting of the meter including a valve on the discharge side of the meter. Meter pits may be used only upon approval of the Superintendent and shall be of a design and construction approved by the Superintendent.

91.06 METER REPAIRS. Whenever a water meter owned by the City is found to be out of order the Superintendent shall have it repaired. If it is found that damage to the meter has occurred due to the carelessness or negligence of the customer or property owner, or the meter is not owned by the City, then the property owner shall be liable for the cost of repairs.

91.07 RIGHT OF ENTRY. The Superintendent shall be permitted to enter the premises of any customer at any reasonable time to read, remove, or change a meter.

91.08 ACCURACY TEST. The Superintendent shall make a test of the accuracy of any water meter at any time when requested in writing, but not more often than once in six (6) months. Such request shall be accompanied by a refundable deposit of five dollars ($5.00) guaranteeing payment of costs if found due. If the meter is found to overrun to the extent of two percent (2%) or more, the cost of the test shall be paid by the City and a refund shall be made to the customer for overcharges collected since the last known date of accuracy but not for longer than three (3) months, plus the meter test deposit. If the meter is found to be

accurate or slow, or less than two percent (2%) fast, the customer deposit shall be forfeited as the reasonable costs of the test, and the customer shall be liable for any deficiency over two percent (2%) up to three (3) months.

CHAPTER 92

WATER RATES

92.01 Service Charges
92.02 Rates For Service
92.03 Rates Outside the City
92.04 Billing for Water Service
92.05 Service Discontinued
92.06 Lien for Nonpayment
92.07 Lien Exemption
92.08 Lien Notice
92.09 Customer Deposits

92.01 SERVICE CHARGES. Each customer shall pay for water service provided by the City based upon use of water as determined by meters provided for in Chapter 91. Each location, building, premises or connection shall be considered a separate and distinct customer whether owned or controlled by the same person or not.

(Code of Iowa, Sec. 384.84)

92.02 RATES FOR SERVICE. Water service shall be furnished at the following monthly rates within the City:

(Code of Iowa, Sec. 384.84)

Gallons Used Per Month	Rate (Minimum Bill)
First 2,000	$40.58 per month (minimum bill)
All over 2,000	$9.05 per 1,000 gallons

(Ord. 324 – Jul 18 Supp.)

92.03 RATES OUTSIDE THE CITY. Water service shall be provided to any customer located outside the corporate limits of the City which the City has agreed to serve at rates set at one hundred fifty percent (150%) of the rates provided in Section 92.02. No such customer, however, will be served unless the customer shall have signed a service contract agreeing to be bound by the ordinances, rules and regulations applying to water service established by the Council. ***(Ord. 310 – May 15 Supp.)***

(Code of Iowa, Sec. 364.4 & 384.84)

92.04 BILLING FOR WATER SERVICE. Water service shall be billed as part of a combined service account, payable in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Bills Issued. The Clerk shall prepare and issue bills for combined service accounts on or before the first day of each month.

2. Bills Payable. Bills for combined service accounts shall be due and payable at the office of the Clerk by the fifteenth (15^{th}) day of each month.

3. Late Payment Penalty. Bills not paid when due shall be considered delinquent. A one-time late payment penalty of ten percent (10%) of the amount due shall be added to each delinquent bill.

92.05 SERVICE DISCONTINUED. Water service to delinquent customers shall be discontinued in accordance with the following:

(Code of Iowa, Sec. 384.84)

1. Notice. The Clerk shall notify each delinquent customer that service will be discontinued if payment of the combined service account, including late payment charges, is not received by the date specified in the notice of delinquency. Such notice shall be sent by ordinary mail to the customer in whose name the delinquent charges were incurred and shall inform the customer of the nature of the delinquency and afford the customer the opportunity for a hearing prior to the discontinuance.

2. Notice to Landlords. If the customer is a tenant, and if the owner or landlord of the property or premises has made a written request for notice, the notice of delinquency shall also be given to the owner or landlord.

3. Hearing. If a hearing is requested by noon of the day preceding the shut off, the Clerk shall conduct an informal hearing and shall make a determination as to whether the disconnection is justified. The customer has the right to appeal the Clerk's decision to the Council, and if the Council finds that disconnection is justified, then such disconnection shall be made, unless payment has been received.

4. Fees. A fee of seventy-five dollars ($75.00) shall be charged before service is restored to a delinquent customer. No fee shall be charged for the usual or customary trips in the regular changes in occupancies of property.

92.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for water service charges to the premises. Water service charges remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

92.07 LIEN EXEMPTION. The lien for nonpayment shall not apply to a residential rental property where water service is separately metered and the rates or charges for the water service are paid directly to the City by the tenant, if the landlord gives written notice to the City that the property is residential rental property and that the tenant is liable for the rates or charges. The City may require a deposit not exceeding the usual cost of ninety (90) days of water service be paid to the City. The landlord's written notice shall contain the name of the tenant responsible for charges, the address of the rental property and the date of occupancy. A change in tenant shall require a new written notice to be given to the City within thirty (30) business days of the change in tenant. When the tenant moves from the rental property, the City shall refund the deposit if the water service charges are paid in full. A change in the ownership of the residential rental property shall require written notice of such change to be given to the City within ten (10) business days of the completion of the change of ownership. The lien exemption does not apply to delinquent charges for repairs to a water service.

92.08 LIEN NOTICE. A lien for delinquent water service charges shall not be certified to the County Treasurer unless prior written notice of intent to certify a lien is given to the customer in whose name the delinquent charges were incurred. If the customer is a tenant and if the owner or landlord of the property or premises has made a written request for notice, the notice shall also be given to the owner or landlord. The notice shall be sent to the appropriate persons by ordinary mail not less than thirty (30) days prior to certification of the lien to the County Treasurer.

(Code of Iowa, Sec. 384.84)

92.09 CUSTOMER DEPOSITS. There shall be required from every customer a one hundred twenty-five dollar ($125.00) deposit intended to guarantee the payment of bills for service.

(Code of Iowa, Sec. 384.84)

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CHAPTER 95

SANITARY SEWER SYSTEM

95.01 Purpose
95.02 Definitions
95.03 Superintendent
95.04 Prohibited Acts
95.05 Sewer Connection Required
95.06 Service Outside the City
95.07 Right of Entry
95.08 Use of Easements
95.09 Special Penalties

95.01 PURPOSE. The purpose of the chapters of this Code of Ordinances pertaining to Sanitary Sewers is to establish rules and regulations governing the treatment and disposal of sanitary sewage within the City in order to protect the public health, safety and welfare.

95.02 DEFINITIONS. For use in these chapters, unless the context specifically indicates otherwise, the following terms are defined:

1. "B.O.D." (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees C., expressed in milligrams per liter or parts per million.

2. "Building drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

3. "Building sewer" means that part of the horizontal piping from the building wall to its connection with the main sewer or the primary treatment portion of an on-site wastewater treatment and disposal system conveying the drainage of one building site.

4. "Combined sewer" means a sewer receiving both surface run-off and sewage.

5. "Customer" means any person responsible for the production of domestic, commercial, or industrial waste which is directly or indirectly discharged into the public sewer system.

6. "Garbage" means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

7. "Industrial wastes" means the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

8. "Inspector" means the person duly authorized by the Council to inspect and approve the installation of building sewers and their connections to the public sewer system; and to inspect such sewage as may be discharged therefrom.

9. "Natural outlet" means any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

10. "On-site wastewater treatment and disposal system" means all equipment and devices necessary for proper conduction, collection, storage, treatment, and disposal

of wastewater from four or fewer dwelling units or other facilities serving the equivalent of fifteen persons (1500 gpd) or less.

11. "pH" means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

12. "Public sewer" means a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

13. "Sanitary sewage" means sewage discharging from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories or institutions, and free from storm, surface water, and industrial waste.

14. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

15. "Sewage" means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface, and storm waters as may be present.

16. "Sewage treatment plant" means any arrangement of devices and structures used for treating sewage.

17. "Sewage works" or "sewage system" means all facilities for collecting, pumping, treating, and disposing of sewage.

18. "Sewer" means a pipe or conduit for carrying sewage.

19. "Sewer service charges" means any and all charges, rates or fees levied against and payable by customers, as consideration for the servicing of said customers by said sewer system.

20. "Slug" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average 24-hour concentration or flows during normal operation.

21. "Storm drain" or "storm sewer" means a sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.

22. "Superintendent" means the Public Works Superintendent of the City or any authorized deputy, agent, or representative.

23. "Suspended solids" means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

24. "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.

95.03 SUPERINTENDENT. The Superintendent shall exercise the following powers and duties:

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

1. Operation and Maintenance. Operate and maintain the City sewage system.

2. Inspection and Tests. Conduct necessary inspections and tests to assure compliance with the provisions of these Sanitary Sewer chapters.

3. Records. Maintain a complete and accurate record of all sewers, sewage connections and manholes constructed showing the location and grades thereof.

95.04 PROHIBITED ACTS. No person shall do, or allow, any of the following:

1. Damage Sewer System. Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

(Code of Iowa, Sec. 716.1)

2. Surface Run-off or Groundwater. Connect a roof downspout, sump pump, exterior foundation drain, areaway drain, or other source of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

3. Manholes. Open or enter any manhole of the sewer system, except by authority of the Superintendent.

4. Objectionable Wastes. Place or deposit in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage, or other objectionable waste.

5. Septic Tanks. Construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage except as provided in these chapters.

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

6. Untreated Discharge. Discharge to any natural outlet within the City, or in any area under its jurisdiction, any sanitary sewage, industrial wastes, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of these chapters.

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

95.05 SEWER CONNECTION REQUIRED. The owners of any houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer, are hereby required to install, at such owner's expense, suitable toilet facilities therein and a building sewer connecting such facilities directly with the proper public sewer, and to maintain the same all in accordance with the provisions of these Sanitary Sewer chapters, such compliance to be completed within sixty (60) days after date of official notice from the City to do so provided that said public sewer is located within one hundred (100) feet of the property line of such owner and is of such design as to receive and convey by gravity such sewage as may be conveyed to it. Billing for sanitary sewer service will begin the date of official notice to connect to the public sewer.

(Code of Iowa, Sec. 364.12 [3f])
(IAC, 567-69.1[3])

95.06 SERVICE OUTSIDE THE CITY. The owners of property outside the corporate limits of the City so situated that it may be served by the City sewer system may apply to the Council for permission to connect to the public sewer upon the terms and conditions stipulated by resolution of the Council.

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

95.07 RIGHT OF ENTRY. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of these Sanitary Sewer chapters. The Superintendent or representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

95.08 USE OF EASEMENTS. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

95.09 SPECIAL PENALTIES. The following special penalty provisions shall apply to violations of these Sanitary Sewer chapters:

1. Notice of Violation. Any person found to be violating any provision of these chapters except subsections 1, 3 and 4 of Section 95.04, shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

2. Continuing Violations. Any person who shall continue any violation beyond the time limit provided for in subsection 1 hereof shall be in violation of this Code of Ordinances. Each day in which any such violation shall continue shall be deemed a separate offense.

3. Liability Imposed. Any person violating any of the provisions of these chapters shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

CHAPTER 96

BUILDING SEWERS AND CONNECTIONS

96.01 Permit
96.02 Connection Charge
96.03 Plumber Required
96.04 Connection Requirements
96.05 Sewer Tap
96.06 Inspection Required
96.07 Property Owner's Responsibility
96.08 Abatement of Violations

96.01 PERMIT. No unauthorized person shall uncover, make any connection with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City. The application for the permit shall set forth the location and description of the property to be connected with the sewer system and the purpose for which the sewer is to be used, and shall be supplemented by any plans, specifications, or other information considered pertinent. The permit shall require the owner to complete construction and connection of the building sewer to the public sewer within sixty (60) days after the issuance of the permit, except that when a property owner makes sufficient showing that due to conditions beyond the owner's control or peculiar hardship, such time period is inequitable or unfair, an extension of time within which to comply with the provisions herein may be granted. Any sewer connection permit may be revoked at any time for a violation of these chapters.

96.02 CONNECTION CHARGE. The person who makes the application shall pay to the Clerk a connection charge in the amount of two hundred dollars ($200.00) to reimburse the City for costs borne by the City in making sewer service available to the property served.

96.03 PLUMBER REQUIRED. All installations of building sewers and connections to the public sewer shall be made by a plumber licensed by the State.

96.04 CONNECTION REQUIREMENTS. The installation of the building sewer and its connection to the public sewer shall conform to the requirements of the *International Plumbing Code*, the laws of the State and the *City of De Soto Standard Specifications for Street and Utility Improvements*.

96.05 SEWER TAP. Connection of the building sewer into the public sewer shall be made at the "Y" branch, if such branch is available at a suitable location. If no properly located "Y" branch is available, a saddle "Y" shall be installed at the location specified by the Superintendent. The public sewer shall be tapped with a tapping machine and a saddle appropriate to the type of public sewer shall be glued or attached with a gasket and stainless steel clamps to the sewer. At no time shall a building sewer be constructed so as to enter a manhole unless special written permission is received from the Superintendent and in accordance with the Superintendent's direction if such connection is approved.

96.06 INSPECTION REQUIRED. No building sewer shall be covered, concealed or put into use until it has been tested, inspected and accepted as prescribed in the *International Plumbing Code*.

96.07 PROPERTY OWNER'S RESPONSIBILITY. All costs and expenses incident to the installation, connection, and maintenance of the building sewer shall be borne by the

owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

96.08 ABATEMENT OF VIOLATIONS. Construction or maintenance of building sewer lines whether located upon the private property of any owner or in the public right-of-way, which construction or maintenance is in violation of any of the requirements of this chapter, shall be corrected, at the owner's expense, within thirty (30) days after date of official notice from the Council of such violation. If not made within such time the Council shall, in addition to the other penalties herein provided, have the right to finish and correct the work and assess the cost thereof to the property owner. Such assessment shall be collected with and in the same manner as general property taxes.

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

CHAPTER 97

USE OF PUBLIC SEWERS

97.01 Storm Water
97.02 Surface Waters Exception
97.03 Prohibited Discharges
97.04 Restricted Discharges
97.05 Restricted Discharges - Powers
97.06 Special Facilities
97.07 Control Manholes
97.08 Testing of Wastes

97.01 STORM WATER. No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof run-off, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the Superintendent. Industrial cooling water or unpolluted process waters may be discharged on approval of the Superintendent, to a storm sewer, combined sewer, or natural outlet.

97.02 SURFACE WATERS EXCEPTION. Special permits for discharging surface waters to a public sanitary sewer may be issued by the Council upon recommendation of the Superintendent where such discharge is deemed necessary or advisable for purposes of flushing, but any permit so issued shall be subject to revocation at any time when deemed to the best interests of the sewer system.

97.03 PROHIBITED DISCHARGES. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

1. Flammable or Explosive Material. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

2. Toxic or Poisonous Materials. Any waters or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) milligrams per liter as CN in the wastes as discharged to the public sewer.

3. Corrosive Wastes. Any waters or wastes having a pH lower than 5.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

4. Solid or Viscous Substances. Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

5. Excessive B.O.D., Solids or Flow. Any waters or wastes having (a) a five (5) day biochemical oxygen demand greater than three hundred (300) parts per million by weight, or (b) containing more than three hundred fifty (350) parts per million by weight of suspended solids, or (c) having an average daily flow greater than two

percent (2%) of the average sewage flow of the City, shall be subject to the review of the Superintendent. Where necessary in the opinion of the Superintendent, the owner shall provide, at the owner's expense, such preliminary treatment as may be necessary to (a) reduce the biochemical oxygen demand to three hundred (300) parts per million by weight, or (b) reduce the suspended solids to three hundred fifty (350) parts per million by weight, or (c) control the quantities and rates of discharge of such waters or wastes. Plans, specifications, and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for the approval of the Superintendent and no construction of such facilities shall be commenced until said approvals are obtained in writing.

97.04 RESTRICTED DISCHARGES. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Superintendent that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming an opinion as to the acceptability of these wastes, the Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances restricted are:

1. High Temperature. Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees F (65 degrees C).

2. Fat, Oil, Grease. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter or six hundred (600) milligrams per liter of dispersed or other soluble matter.

3. Viscous Substances. Water or wastes containing substances which may solidify or become viscous at temperatures between thirty-two (32) and one hundred fifty (150) degrees F (0 and 65 degrees C).

4. Garbage. Any garbage that has not been properly shredded, that is, to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (½) inch in any dimension.

5. Acids. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solution whether neutralized or not.

6. Toxic or Objectionable Wastes. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Superintendent for such materials.

7. Odor or Taste. Any waters or wastes containing phenols or other taste or odor producing substances, in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of state, federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

8. Radioactive Wastes. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations.

9. Excess Alkalinity. Any waters or wastes having a pH in excess of 9.5.

10. Unusual Wastes. Materials which exert or cause:

A. Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

B. Excessive discoloration (such as, but not limited to dye wastes and vegetable tanning solutions).

C. Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.

D. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.

11. Noxious or Malodorous Gases. Any noxious or malodorous gas or other substance which either singly or by interaction with other wastes is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.

12. Damaging Substances. Any waters, wastes, materials or substances which react with water or wastes in the sewer system to release noxious gases, develop color of undesirable intensity, form suspended solids in objectionable concentration or create any other condition deleterious to structures and treatment processes.

13. Untreatable Wastes. Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

97.05 RESTRICTED DISCHARGES - POWERS. If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 97.04 and which in the judgment of the Superintendent may have a deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may:

1. Rejection. Reject the wastes by requiring disconnection from the public sewage system;

2. Pretreatment. Require pretreatment to an acceptable condition for discharge to the public sewers;

3. Controls Imposed. Require control over the quantities and rates of discharge; and/or

4. Special Charges. Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of Chapter 99.

97.06 SPECIAL FACILITIES. If the Superintendent permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Superintendent and subject to the requirements of all applicable codes, ordinances, and laws. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at the owner's expense.

97.07 CONTROL MANHOLES. When required by the Superintendent, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Superintendent. The manhole shall be installed by the owner at the owner's expense, and shall be maintained by the owner so as to be safe and accessible at all times.

97.08 TESTING OF WASTES. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of *Standard Methods 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, B.O.D. and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).

CHAPTER 98

ON-SITE WASTEWATER SYSTEMS

98.01 When Prohibited
98.02 When Required
98.03 Compliance with Regulations
98.04 Permit Required
98.05 Discharge Restrictions
98.06 Maintenance of System
98.07 Systems Abandoned
98.08 Disposal of Septage

98.01 WHEN PROHIBITED. Except as otherwise provided in this chapter, it is unlawful to construct or maintain any on-site wastewater treatment and disposal system or other facility intended or used for the disposal of sewage.

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

98.02 WHEN REQUIRED. When a public sanitary sewer is not available under the provisions of Section 95.05, every building wherein persons reside, congregate or are employed shall be provided with an approved on-site wastewater treatment and disposal system complying with the provisions of this chapter.

(IAC, 567-69.1[3])

98.03 COMPLIANCE WITH REGULATIONS. The type, capacity, location and layout of a private on-site wastewater treatment and disposal system shall comply with the specifications and requirements set forth by the Iowa Administrative Code 567, Chapter 69, and with such additional requirements as are prescribed by the regulations of the County Board of Health.

(IAC, 567-69.1[3 & 4])

98.04 PERMIT REQUIRED. No person shall install or alter an on-site wastewater treatment and disposal system without first obtaining a permit from the County Board of Health.

98.05 DISCHARGE RESTRICTIONS. It is unlawful to discharge any wastewater from an on-site wastewater treatment and disposal system (except under an NPDES permit) to any ditch, stream, pond, lake, natural or artificial waterway, drain tile or to the surface of the ground.

(IAC, 567-69.1[3])

98.06 MAINTENANCE OF SYSTEM. The owner of an on-site wastewater treatment and disposal system shall operate and maintain the system in a sanitary manner at all times and at no expense to the City.

98.07 SYSTEMS ABANDONED. At such time as a public sewer becomes available to a property served by an on-site wastewater treatment and disposal system, as provided in Section 95.05, a direct connection shall be made to the public sewer in compliance with these Sanitary Sewer chapters and the on-site wastewater treatment and disposal system shall be abandoned and filled with suitable material.

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

98.08 DISPOSAL OF SEPTAGE. No person shall dispose of septage from an on-site treatment system at any location except an approved disposal site.

CHAPTER 99

SEWER SERVICE CHARGES

99.01 Sewer Service Charges Required
99.02 Rate
99.03 Special Rates
99.04 Private Water Systems
99.05 Payment of Bills
99.06 Lien for Nonpayment
99.07 Special Agreements Permitted

99.01 SEWER SERVICE CHARGES REQUIRED. Every customer shall pay to the City sewer service fees as hereinafter provided.

(Code of Iowa, Sec. 384.84)

99.02 RATE. Each customer shall pay sewer service charges for the use of and for the service supplied by the municipal sanitary sewer system based upon the amount of water consumed as follows:

1. First 2,000 gallons or lesser amount per month @ $40.13 (minimum bill).
2. All over 2,000 gallons per month @ $12.40 per 1,000 gallons.

In no case shall the minimum service charge be less than the minimum bill set forth above per month, which is necessary to retire the indebtedness, operating and maintenance, and reserve necessary for maintaining the sanitary sewer facility.

(Ord. 325 – Jul 18 Supp.)

99.03 SPECIAL RATES. Where, in the judgment of the Superintendent and the Council, special conditions exist to the extent that the application of the sewer charges provided in Section 99.02 would be inequitable or unfair to either the City or the customer, a special rate shall be proposed by the Superintendent and submitted to the Council for approval by resolution.

(Code of Iowa, Sec. 384.84)

99.04 PRIVATE WATER SYSTEMS. Customers whose premises are served by a private water system shall pay sewer charges based upon the water used as determined by the City either by an estimate agreed to by the customer or by metering the water system at the customer's expense. Any negotiated, or agreed upon sales or charges shall be subject to approval of the Council.

(Code of Iowa, Sec. 384.84)

99.05 PAYMENT OF BILLS. All sewer service charges are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Sewer service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

99.06 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof shall be jointly and severally liable for sewer service charges to the premises. Sewer service charges remaining unpaid and delinquent shall constitute a lien upon the

premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

99.07 SPECIAL AGREEMENTS PERMITTED. No statement in these chapters shall be construed as preventing a special agreement, arrangement, or contract between the Council, and any industrial concern whereby an industrial waste of unusual strength or character may be accepted subject to special conditions, rate and cost as established by the Council.

CHAPTER 100

DE SOTO - I-80 SANITARY SEWER CONNECTION FEE DISTRICT

100.01 Establishment of District
100.02 Definitions
100.03 Payment and Connection
100.04 Use of Proceeds
100.05 Other Costs
100.06 Permit Required
100.07 Interpretation

100.01 ESTABLISHMENT OF DISTRICT. The City Council of the City of De Soto, Iowa, after public notice and hearing as prescribed by law, has determined the necessity of establishing the City of De Soto - I-80 Sanitary Sewer Connection Fee District ("Connection Fee District") and the imposition of a fee for connecting to the City of De Soto - I-80 Sanitary Sewer upon each person who owns property in said area and who desires to be connected to the City of De Soto - I-80 Sanitary Sewer.

100.02 DEFINITIONS.

1. "Benefited Service Area" and "Connection Fee District" means the area within the City limits of De Soto, Iowa, described as follows:

The City of De Soto – I-80 Sanitary Sewer Connection Fee District consists of property located within Section 19, Township 78 North, Range 27 West of the 5th P.M. and within Section 24, Township 78 North, Range 28 West of the 5th P.M., City of De Soto, Dallas County, Iowa and more particularly described as follows:

COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 0°10'00" WEST ALONG THE CENTER LINE OF U.S. HIGHWAY 169, 65.70 FEET; THENCE NORTH 89°50'00" EAST, 60.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 169, SAID POINT BEING THE POINT OF BEGINNING; THENCE NORTH 0°10'00" WEST ALONG SAID EASTERLY RIGHT-OF-WAY LINE, 392.00 FEET; THENCE NORTH 7°36'45" EAST CONTINUING ALONG SAID EASTERLY LINE, 184.70 FEET; THENCE NORTH 3°16'01" EAST CONTINUING ALONG SAID EASTERLY LINE, 500.90 FEET; THENCE NORTH 43°44'50" EAST CONTINUING ALONG SAID EASTERLY LINE AND ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE HIGHWAY 80, 167.95 FEET; THENCE NORTH 68°30'32" EAST CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 80, 472.04 FEET; THENCE SOUTH 0°13'17" EAST, 1210.13 FEET; THENCE SOUTH 89°35'46" WEST, 402.07 FEET; THENCE NORTH 89°46'13" WEST, 163.29 FEET; THENCE SOUTH 0°10'00" EAST ALONG A LINE BEING 47 FEET WEST OF AND PARALLEL WITH THE EAST RIGHT-OF-WAY LINE OF SAID HIGHWAY 169, 157.20 FEET; THENCE SOUTH 43°19'09" EAST ALONG A LINE PARALLEL WITH SAID EAST RIGHT-OF-WAY

LINE, 90.86 FEET TO A POINT ON THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4; THENCE NORTH 89°53'28" WEST ALONG THE SOUTH LINE OF SAID NORTHWEST 1/4 OF THE SOUTHWEST 1/4, 47.00 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 169; THENCE NORTH 43°19'09" WEST ALONG THE EAST RIGHT-OF-WAY LINE OF SAID U.S. HIGHWAY 169, 90.86 FEET TO THE POINT OF BEGINNING; AND

THE SOUTH HALF OF THE NORTHEAST 1/4 (S ½ NE 1/4) OF SECTION 19, TOWNSHIP 78 NORTH, RANGE 27 WEST LYING NORTH OF THE INTERSTATE ROUTE #80, AND ALL THAT PART OF THE SOUTH FRACTIONAL HALF (SFRL 1/2) OF THE NORTHWEST QUARTER (NE 1/4) OF SECTION NINETEEN (19) IN TOWNSHIP SEVENTY-EIGHT (78) NORTH, RANGE TWENTY-SEVEN (27) WEST LYING NORTH AND EAST OF RIGHT-OF-WAY OF PUBLIC HIGHWAY AS THEREIN SITUATED AND DEEDED OF RECORD TO THE IOWA STATE HIGHWAY COMMISSION, AND

ALL THAT PART OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER (SE 1/4 NE 1/4) OF SECTION TWENTY-FOUR (24), TOWNSHIP SEVENTY-EIGHT (78) NORTH, RANGE TWENTY-EIGHT (28) WEST THAT LIES NORTH AND WEST OF THE RIGHT-OF-WAY OF INTERSTATE 80, AND

THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 AND THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 24, TOWNSHIP 78 NORTH, RANGE 28 WEST, EXCEPT LAND DEEDED TO THE STATE OF IOWA RECORDED IN BOOK 442, PAGE 569 AND FILED JANUARY 27,1966, AND EXCEPT LAND LEGALLY DESCRIBED AS FOLLOWS: 5 ACRES, MORE OR LESS, IN THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24, TOWNSHIP 78 NORTH, RANGE 28 WEST MORE PARTICULARLY DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 24-78-28 WEST; THENCE SOUTH 520.1 FEET; THENCE NORTH 89°04 1/2' EAST 379.4 FEET; THENCE NORTH 0°22 1/2' EAST 527.5 FEET; THENCE SOUTH 89°22 1/2' WEST 382.4 FEET TO THE POINT OF BEGINNING.

2. "De Soto - I-80 Sanitary Sewer" means construction of a trunk sanitary sewer along the east side of U.S. Highway 169 from Spruce Street north to the north side of Interstate 80, consisting of approximately 2,700 feet of 10" and 12" diameter sewer pipe with manholes, sewer encasement, pavement removal/replacement, traffic control and surface restoration. The route of the sewer line is more particularly described as follows:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 19, TOWNSHIP 78 NORTH, RANGE 27 WEST OF THE 5th P.M.; THENCE SOUTH 0°10'00" EAST ALONG THE WEST LINE OF SAID SOUTHWEST 1/4, 28.96 FEET; THENCE NORTH 89°50'00" EAST, 155.44 FEET TO THE POINT OF BEGINNING; THENCE NORTH

82°33'59" WEST, 104.00 FEET; THENCE NORTH 0°43'46" EAST, 156.29 FEET; THENCE NORTH 0°28'08" EAST, 400.03 FEET; THENCE NORTH 2°43'58" EAST, 204.99 FEET; THENCE NORTH 0°29'23" EAST, 399.86 FEET; THENCE NORTH 31°07'52" EAST, 123.37 FEET; THENCE NORTH 24°51'18" WEST, 194.18 FEET; THENCE NORTH 1°52'19" WEST, 366.52 FEET; THENCE NORTH 16°55'19" EAST, 175.25 FEET; THENCE NORTH 0°00'00" EAST, 230.00 FEET; THENCE NORTH 7°05'02" WEST, 255.28 FEET; THENCE NORTH 90°00'00" WEST, 161.02 FEET TO A POINT OF TERMINUS.

3. "Connection" means any act that results, directly or indirectly, in receiving sewer service from the City sewer utility, including but not limited to, the connection of a private sewer system to a sewer main.

4. "Connection fee" means the sums specified below per acre of property within the connection fee district served by the connection. The figures for connection after December 31, 2003, reflect an interest component of approximately 3% per annum from and after January 1, 2003.

A.	In-service date of sewer to 12-31-2003	$2,200/acre
B.	01-01-2004 to 12-31-2004	$2,266/acre
C.	01-01-2005 to 12-31-2005	$2,334/acre
D.	01-01-2006 to 12-31-2006	$2,404/acre
E.	01-01-2007 to 12-31-2007	$2,476/acre
F.	01-01-2008 to 12-31-2008	$2,550/acre
G.	01-01-2009 to 12-31-2009	$2,627/acre
H.	01-01-2010 to 12-31-2010	$2,706/acre
I.	01-01-2011 to 12-31-2011	$2,787/acre
J.	01-01-2012 to 12-31-2012	$2,870/acre
K.	01-01-2013 and thereafter	$2,870/acre

5. When a determination that a portion of a property within the connection fee district is to be developed and connected to the sewer, the appropriate connection fee shall be paid based on the area of the development to be served. The determination that a portion of a property is to be connected and the appropriate connect fee shall be paid, prior to the time of release of a final plat for recording, or issuance of a building permit or plumbing permit, whichever occurs first. As additional portions of the subject property are developed and served in the future, the appropriate connection fee for these portions shall be paid using the same procedure.

100.03 PAYMENT AND CONNECTION.

1. A property owner within the connection fee district may pay the connection fee prior to January 1, 2004, without interest.

2. Connection to the De Soto - I-80 Sanitary Sewer shall not be permitted until the connection fee specified above is paid in full.

3. Prior to connection, a property owner shall file an application, on a form provided by the City, with the City Administrator. Upon approval of the application, the City Administrator shall advise the applicant of the connection fee to be paid. Upon payment of the connection fee and accrued interest, if any, to the City Treasurer, or upon entry into an agreement to pay said fee in installments if so allowed by separate action of the City Council of the City of De Soto, Iowa, the City shall issue a connection permit. Upon completion of the connection the property owner shall notify the City Administrator, and the City Administrator or the City Administrator's designee shall, at his or her discretion, inspect the connection. Connections found to be faulty shall be corrected by the property owner immediately.

100.04 USE OF PROCEEDS. Connection fees collected by the City Treasurer shall be used only for the purposes of operating or paying debt of the City of De Soto - I-80 Sanitary Sewer, or operating expenses or debt of the City of De Soto incurred in the operation of any sanitary sewer infrastructure, including treatment facilities, related to the City of De Soto - I-80 Sanitary Sewer.

100.05 OTHER COSTS. The sewer connection fees established by this chapter are in addition to, and not in lieu of, any other fees for connection required under the plumbing code, other provisions of the municipal code, or City policy. The property owner paying a connection fee will be responsible for the full cost of providing any necessary sewer line extensions or services lines from the private property improvements or buildings to the sewer main being constructed as part of the project.

100.06 PERMIT REQUIRED. In the event a connection is made to the City of De Soto - I-80 Sanitary Sewer serving De Soto - I-80 Sanitary Sewer Connection Fee District without the permit required by this chapter, or without payment of the connection fee set forth in this chapter, or if any installment payment of such fee as provided by subsequent ordinance of the City Council is not made, the City may, pursuant to the provisions of Section 384.84, *Code of Iowa*:

1. Give ten (10) days notice of the intention to disconnect such service from the City of De Soto - I-80 Sanitary Sewer until such time as the property owner has received a permit for the connection and paid the required connection fee; upon failure to show cause why disconnection should not be accomplished by the City, the City may proceed with disconnection in the manner provided by law. Any environmental pollution or damage caused by unpermitted connection, disconnection, and permitted reconnection, shall be the exclusive responsibility of the property owner.

2. Pursuant to the provisions of Section 384.84, the City may declare the connection fee specified above, plus interest, due and payable, and in default, and may certify said amount to the County Treasurer as immediately due and payable, whereupon the County Treasurer shall certify said amount as a lien upon the property in accordance with Section 384.84. Upon satisfaction of the lien, the property owner shall be entitled to connection, all costs of which shall again be borne entirely by the property owner.

3. In addition, the City may pursue any other remedy allowed by law.

100.07 INTERPRETATION. The provisions of this chapter are intended and shall be construed so as to fully implement the provisions of Section 384.38(3) of the *Code of Iowa*, as amended. In the event that any provision of this chapter shall be determined to be contrary to

law, it shall not affect other provisions or application of this chapter which shall at all times be construed to fully invoke the provisions of Section 384.38(3) of the *Code of Iowa* with reference to the assessment and collection of fees for connection to a sewer utility.

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CHAPTER 105

SOLID WASTE CONTROL

105.01 Purpose
105.02 Definitions
105.03 Sanitary Disposal Required
105.04 Health and Fire Hazard
105.05 Open Burning Restricted
105.06 Separation of Yard Waste Required
105.07 Littering Prohibited
105.08 Open Dumping Prohibited
105.09 Toxic and Hazardous Waste
105.10 Waste Storage Containers
105.11 Prohibited Practices

105.01 PURPOSE. The purpose of the chapters in this Code of Ordinances pertaining to Solid Waste Control and Collection is to provide for the sanitary storage, collection, and disposal of solid waste and, thereby, to protect the citizens of the City from such hazards to their health, safety and welfare as may result from the uncontrolled disposal of solid waste.

105.02 DEFINITIONS. For use in these chapters the following terms are defined:

1. "Collector" means any person authorized to gather solid waste from public and private places.

2. "Discard" means to place, cause to be placed, throw, deposit, or drop.
(Code of Iowa, Sec. 455B.361[2])

3. "Dwelling unit" means any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

4. "Garbage" means all solid and semisolid, putrescible animal and vegetable waste resulting from the handling, preparing, cooking, storing, serving and consuming of food or of material intended for use as food, and all offal, excluding useful industrial by-products, and includes all such substances from all public and private establishments and from all residences.
(IAC, 567-100.2)

5. "Landscape waste" means any vegetable or plant waste except garbage. The term includes trees, tree trimmings, branches, stumps, brush, weeds, leaves, grass, shrubbery, and yard trimmings.
(IAC, 567-20.2[455B])

6. "Litter" means any garbage, rubbish, trash, refuse, waste materials, or debris.
(Code of Iowa, Sec. 455B.361[1])

7. "Owner" means, in addition to the record titleholder, any person residing in, renting, leasing, occupying, operating or transacting business in any premises, and as between such parties the duties, responsibilities, liabilities and obligations hereinafter imposed shall be joint and several.

8. "Refuse" means putrescible and non-putrescible waste, including but not limited to garbage, rubbish, ashes, incinerator residues, street cleanings, market and industrial solid waste and sewage treatment waste in dry or semisolid form.
(IAC, 567-100.2)

9. "Residential premises" means a single-family dwelling and any multiple-family dwelling up to and including two separate dwelling units.

10. "Residential waste" means any refuse generated on the premises as a result of residential activities. The term includes landscape waste grown on the premises or deposited thereon by the elements, but excludes garbage, tires, trade wastes and any locally recyclable goods or plastics.

(IAC, 567-20.2[455B])

11. "Rubbish" means non-putrescible solid waste consisting of combustible and non-combustible waste, such as ashes, paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, or litter of any kind.

(IAC, 567-100.2)

12. "Sanitary disposal" means a method of treating solid waste so that it does not produce a hazard to the public health or safety or create a nuisance.

(IAC, 567-100.2)

13. "Sanitary disposal project" means all facilities and appurtenances including all real and personal property connected with such facilities, which are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301)

14. "Solid waste" means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:

(Code of Iowa, Sec. 455B.301)

A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.

B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.

C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.

D. Petroleum contaminated soil that has been remediated to acceptable State or Federal standards.

105.03 SANITARY DISPOSAL REQUIRED. It is the duty of each owner to provide for the sanitary disposal of all refuse accumulating on the owner's premises before it becomes a nuisance. Any such accumulation remaining on any premises for a period of more than thirty (30) days shall be deemed a nuisance and the City may proceed to abate such nuisances in accordance with the provisions of Chapter 50 or by initiating proper action in district court.

(Code of Iowa, Ch. 657)

105.04 HEALTH AND FIRE HAZARD. It is unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any public place, such quantities of solid waste that constitute a health, sanitation or fire hazard.

105.05 OPEN BURNING RESTRICTED. No person shall allow, cause or permit open burning of combustible materials where the products of combustion are emitted into the open air without passing through a chimney or stack without first obtaining a permit and conducting such burning in accordance with the *International Fire Code*.

105.06 SEPARATION OF YARD WASTE REQUIRED. All yard waste shall be separated by the owner or occupant from all other solid waste accumulated on the premises and shall be composted or burned on the premises or placed in acceptable containers and set out for collection. As used in this section, "yard waste" means any debris such as grass clippings, leaves, garden waste, brush, and trees. Yard waste does not include tree stumps.

105.07 LITTERING PROHIBITED. No person shall discard any litter onto or in any water or land, except that nothing in this section shall be construed to affect the authorized collection and discarding of such litter in or on areas or receptacles provided for such purpose. When litter is discarded from a motor vehicle, the driver of the motor vehicle shall be responsible for the act in any case where doubt exists as to which occupant of the motor vehicle actually discarded the litter.

(Code of Iowa, Sec. 455B.363)

105.08 OPEN DUMPING PROHIBITED. No person shall dump or deposit or permit the dumping or depositing of any solid waste on the surface of the ground or into a body or stream of water at any place other than a sanitary disposal project approved by the Director of the State Department of Natural Resources, unless a special permit to dump or deposit solid waste on land owned or leased by such person has been obtained from the Director of the State Department of Natural Resources. However, this section does not prohibit the use of rubble at places other than a sanitary disposal project. "Rubble" means dirt, stone, brick, or similar inorganic materials used for beneficial fill, landscaping, excavation, or grading at places other than a sanitary disposal project. Rubble includes asphalt waste only as long as it is not used in contact with water in a floodplain. For purposes of this section, rubble does not mean gypsum or gypsum wallboard, coal combustion residue, foundry sand, or industrial process wastes unless those wastes are approved by the State Department of Natural Resources.

(Code of Iowa, Sec. 455B.301, Sec. 455B.307 and IAC, 567-100.2)

105.09 TOXIC AND HAZARDOUS WASTE. No person shall deposit in a solid waste container or otherwise offer for collection any toxic or hazardous waste. Such materials shall be transported and disposed of as prescribed by the Director of the State Department of Natural Resources. As used in this section, "toxic and hazardous waste" means waste materials, including but not limited to, poisons, pesticides, herbicides, acids, caustics, pathological waste, flammable or explosive materials and similar harmful waste which requires special handling and which must be disposed of in such a manner as to conserve the environment and protect the public health and safety.

(IAC, 567-100.2)
(IAC, 567-102.13[2] and 400-27.14[2])

105.10 WASTE STORAGE CONTAINERS. Every person owning, managing, operating, leasing or renting any premises, dwelling unit or any place where refuse accumulates shall provide and at all times maintain in good order and repair portable containers for refuse in accordance with the following:

1. Container Specifications. Waste storage containers shall comply with the following specifications:

A. Residential. Residential waste containers, whether they be reusable, portable containers or heavy-duty disposable garbage bags, shall be of sufficient capacity, and leakproof and waterproof. Disposable containers shall be securely fastened, and reusable containers shall be fitted with a fly-tight lid which shall be kept in place except when depositing or removing the contents of the container. Reusable containers shall also be lightweight and of sturdy construction and have suitable lifting devices.

B. Commercial. Every person owning, managing, operating, leasing or renting any commercial premises where an excessive amount of refuse accumulates and where its storage in portable containers as required above is impractical, shall maintain metal bulk storage containers approved by the City.

2. Storage of Containers.

A. Residential. Residential solid waste containers shall be stored upon the residential premises. All owners of residential premises shall be responsible for the proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yards and streets.

B. Commercial. Commercial solid waste containers shall be stored upon private property at the side or rear of a building. If the container is placed upon the side of a building, then a fence or some other enclosure shall be erected to hide the container from view. The storage site shall be well drained; fully accessible to collection equipment, public health personnel and fire inspection personnel. All owners of commercial premises shall be responsible for the proper storage of all garbage and yard waste to prevent materials from being blown or scattered around neighboring yard and streets.

(Ord. 296 – Feb. 13 Supp.)

3. Location of Containers for Collection. Containers for the storage of solid waste awaiting collection shall be placed at the curb or alley line by the owner or occupant of the premises served. Containers or other solid waste placed at the curb line shall not be so placed more than twenty-four (24) hours in advance of the regularly scheduled collection day and shall be promptly removed from the curb line following collection.

4. Nonconforming Containers. Solid waste placed in containers which are not in compliance with the provisions of this section will not be collected.

105.11 PROHIBITED PRACTICES. It is unlawful for any person to:

1. Unlawful Use of Containers. Deposit refuse in any solid waste containers not owned by such person without the written consent of the owner of such containers.

2. Interfere with Collectors. Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties as such, whether such equipment or collectors be those of the City, or those of any other authorized waste collection service.

3. Incinerators. Burn rubbish or garbage except in incinerators designed for high temperature operation, in which solid, semisolid, liquid, or gaseous combustible refuse is ignited and burned efficiently, and from which the solid residues contain little or no combustible material, as acceptable to the Environmental Protection Commission.

4. Scavenging. Take or collect any solid waste which has been placed out for collection on any premises, unless such person is an authorized solid waste collector.

CHAPTER 106

COLLECTION OF SOLID WASTE

106.01 Collection Service
106.02 Collection Vehicles
106.03 Loading
106.04 Frequency of Collection
106.05 Bulky Rubbish
106.06 Right of Entry
106.07 Contract Requirements
106.08 Collection Fees
106.09 Lien for Nonpayment

106.01 COLLECTION SERVICE. The City shall provide by contract for the collection of all solid waste, except bulky rubbish as provided in Section 106.05, within the City except for those commercial, industrial, or institutional premises that utilize metal bulk storage containers. The owners or operators of commercial, industrial, or institutional premises that utilize bulk containers shall provide for the collection of solid waste produced upon such premises.

106.02 COLLECTION VEHICLES. Vehicles or containers used for the collection and transportation of garbage and similar putrescible waste or solid waste containing such materials shall be leakproof, durable and of easily cleanable construction. They shall be cleaned to prevent nuisances, pollution or insect breeding and shall be maintained in good repair.

(IAC, 567-104.9[455B])

106.03 LOADING. Vehicles or containers used for the collection and transportation of any solid waste shall be loaded and moved in such a manner that the contents will not fall, leak, or spill therefrom, and shall be covered to prevent blowing or loss of material. Where spillage does occur, the material shall be picked up immediately by the collector or transporter and returned to the vehicle or container and the area properly cleaned.

106.04 FREQUENCY OF COLLECTION. All solid waste shall be collected from residential premises at least once each week and from commercial, industrial and institutional premises as frequently as may be necessary, but not less than once each week.

106.05 BULKY RUBBISH. Bulky rubbish which is too large or heavy to be collected in the normal manner of other solid waste may be collected by the collector upon request in accordance with procedures therefor established by the Council.

106.06 RIGHT OF ENTRY. Solid waste collectors are hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this chapter; however, solid waste collectors shall not enter dwelling units or other residential buildings.

106.07 CONTRACT REQUIREMENTS. No person shall engage in the business of collecting, transporting, processing or disposing of solid waste for the City without first entering into a contract with the City. This section does not prohibit an owner from transporting solid waste accumulating upon premises owned, occupied or used by such owner, provided such refuse is disposed of properly in an approved sanitary disposal project. Furthermore, a contract is not required for the removal, hauling, or disposal of earth and rock material from grading or excavation activities, provided that all such materials are conveyed in

tight vehicles, trucks or receptacles so constructed and maintained that none of the material being transported is spilled upon any public right-of-way.

106.08 COLLECTION FEE. The collection and disposal of solid waste as provided by this chapter are declared to be beneficial to the property served or eligible to be served and there shall be levied and collected a fee therefor in accordance with the following:

(Goreham vs. Des Moines, 1970, 179 NW 2nd, 449)

1. Fee. A fee of $15.00 per month shall be charged by the City and collected from each family unit or owner of a dwelling unit, as defined in Section 105.02 of this Code of Ordinances, served by solid waste collection service as provided in this chapter. Said charge or fee shall be in payment for collection and disposal of refuse, garbage and rubbish as defined. ***(Ord. 326 – Jul. 18 Supp.)***

(Code of Iowa, Sec. 384.84)

2. Unit Based Pricing. The solid waste collection fee established above shall provide for the collection of one 95-gallon tote, not to exceed 150 pounds of acceptable refuse, garbage and rubbish as defined. All additional containers or bags placed for collection must be marked with identifying tags obtained from the City, the cost of which shall be set by resolution of the Council.

3. Payment of Bills. All fees are due and payable under the same terms and conditions provided for payment of a combined service account as contained in Section 92.04 of this Code of Ordinances. Solid waste collection service may be discontinued in accordance with the provisions contained in Section 92.05 if the combined service account becomes delinquent, and the provisions contained in Section 92.08 relating to lien notices shall also apply in the event of a delinquent account.

106.09 LIEN FOR NONPAYMENT. The owner of the premises served and any lessee or tenant thereof are jointly and severally liable for fees for solid waste collection and disposal. Fees remaining unpaid and delinquent shall constitute a lien upon the premises served and shall be certified by the Clerk to the County Treasurer for collection in the same manner as property taxes.

(Code of Iowa, Sec. 384.84)

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CHAPTER 110

NATURAL GAS FRANCHISE

110.01 Franchise Granted
110.02 Rights and Privileges
110.03 Pipes and Mains
110.04 Construction and Maintenance
110.05 Excavations
110.06 Utility Easments
110.07 Relocation Not Required
110.08 Indemnification
110.09 Information
110.10 Applicable Regulations
110.11 Duty to Furnish
110.12 Termination
110.13 Severability
110.14 Effective
110.15 Effective Date

110.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called "Company,") and to its successors and assigns the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of De Soto, Iowa, (hereinafter called "City,") a gas distribution system, to furnish natural gas along, under and upon the right-of-way, streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise, the Company is granted the right of eminent domain, the exercise of which is subject to the City Council approval upon application by the Company. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance.[†]

110.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* 2019, or as subsequently amended or changed.

110.03 PIPES AND MAINS. 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 placed as not to unreasonably interfere with any above or below-ground utility services or facilities which have been or may hereafter be located by or under authority of the City.

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff,") at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such a manner as the City may reasonably require for the purposes of facilitating the construction reconstruction, maintenance or repair of the street or alley. If the City has a reasonable alternative route for the street, right of way or alley or an alternative construction method, which would not cause the relocation of Company installations or would minimize the cost or expense of relocation of Company installations, the City and Company shall work together to consider said alternative route or construction method. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested the City shall

[†] **EDITOR'S NOTE:** Ordinance No. 329, adopting a natural gas franchise for the City, was passed and adopted on July 17, 2018 and published as provided by law on July 26, 2018.

provide, at no cost to the Company, copies of its relocation plan and profile and cross section drawings. If the timing of the tree/vegetation removal does not coincide with the Company facilities relocation schedule and Company must remove trees/vegetation that are included in the City's portion of the project, the City shall either remove the material at its cost or reimburse the Company for the expenses incurred to remove said vegetation or trees. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall attempt to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

110.05 EXCAVATIONS. In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring it to the condition as existed immediately prior to excavation. The Company in making such excavations shall, if required by ordinance, obtain a City permit therefore and provide City representatives with advance notice prior to the actual commencement of the work, and shall comply with all provisions and requirements of the City in its regulation of the use of City right of way in performing such work. In emergencies which require immediate excavation, the Company may proceed with the work without first applying for or obtaining the permit, provided, however, that Company shall apply for and obtain the excavation permit as soon as possible after commencing such emergency work. The Company shall comply with all provisions and requirements of the City in its regulation of the use of City right of way in performing such work. The Company shall comply with all City ordinances regarding paving cuts, placement of facilities and restoration of pavement and other public infrastructure. The Company shall replace the surface, restoring the condition as existed prior to the Company's excavation but shall not be required to improve or modify the public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition. Company shall complete all repairs in a timely manner. Company agrees any replacement of road surface shall conform to current City ordinances regarding its depth and composition.

110.06 UTILITY EASEMENTS. The City's vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities on, below, above, or beneath the vacated property.

110.07 RELOCATION NO REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City at any time during the previous five (5) years.

110.08 INDEMNIFICATION. The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the natural gas facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

110.09 INFORMATION. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right of way, of all equipment which it owns or over which it has control that is located in the public right of way, including documents, maps and other information in paper or electronic or other forms ("Information"). The Company and City recognize the

Information may in whole or part be considered a confidential record under state or federal law or both. Upon receipt of a request from a third party for information concerning information about the Company's facilities within the City, the City will promptly submit same to Company. If the Company believes any of the information requested constitutes a trade secret which may otherwise be protected from public disclosure by state or federal law, or otherwise exempt from disclosure under the provisions of he Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time, then the Company shall provide the City with a written explanation of the basis for such assertion of confidentiality or exemption from disclosure within ten (10) days.

110.10 APPLICABLE REGULATIONS. The Company shall extend its main and pipes and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law.

110.11 DUTY TO FURNISH. During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent and in accordance with the applicable regulations of the Iowa Utilities Board the Company's tariff made effective by the Iowa Utilities Board or its successors and Iowa law.

110.12 TERMINATION. Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have sixty (60) days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a shorter or longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

110.13 SEVERABILITY. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

110.14 EFFECTIVE. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within ten (10) days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the *Code of Iowa*. The effective date of this ordinance shall be the date of publication. In the event that the Company does not file its written acceptance of this ordinance within thirty (30) days after its approval by the City Council this ordinance shall be void and of no effect.

110.15 EFFECTIVE DATE. Upon the effective date of this ordinance, all prior natural gas franchises granted to the Company to furnish natural gas to the City and its inhabitants are

hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

(Ch. 110 – Ord. 329 – Jul. 18 Supp.)

CHAPTER 111

ELECTRIC FRANCHISE

111.01 Franchise Granted
111.02 Rights and Privileges
111.03 Poles and Wires
111.04 Construction and Maintenance
111.05 Excavations
111.06 Utility Easements
111.07 Relocation Not Required
111.08 Indemnification
111.09 Trimming Trees
111.10 Information
111.11 Applicable Regulations
111.12 Binding
111.13 Termination
111.14 Severability
111.15 Effective
111.16 Effective Date

111.01 FRANCHISE GRANTED. There is hereby granted to MidAmerican Energy Company, an Iowa corporation, (hereinafter called "Company,") and its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of De Soto, Iowa, (hereinafter called "City,") a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, rights of way and alleys to serve customers within the City, and to furnish and sell electric energy to the City and its inhabitants. The Company is granted the right to exercise of powers of eminent domain, subject to City Council approval. This franchise shall be effective for a twenty-five (25) year period from and after the effective date of this ordinance[†].

111.02 RIGHTS AND PRIVILEGES. The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa* 2019 or as subsequently amended or changed.

111.03 POLES AND WIRES. The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories as well as to excavate and bury conduits or conductors for the distribution of electric energy and communications signals in and through the City, provided the same shall be placed in accord with this franchise and City Code regulations of the City, regarding the placement of structures, facilities, accessories or other objects in the right of way, including ordinances which assign corridors or other placements to users of the right of way and requirements which may be adopted regarding underground placement of lines, separation of structures, facilities, accessories or other objects.

111.04 CONSTRUCTION AND MAINTENANCE. The Company shall, excluding facilities located in private easements (whether titled in Company exclusively or in Company and other entities), in accordance with Iowa law including Company's Tariff on file with and made effective by the Iowa Utilities Board as may subsequently be amended ("Tariff"), at its cost and expense, locate and relocate its existing installations located in, on, over or under the right-of-way of any public street, right of way or alley in the City in such a manner as the City may require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street right of way or alley. If the City has a reasonable alternative route for the

[†] **EDITOR'S NOTE:** Ordinance No. 328, adopting an electric franchise for the City, was passed and adopted on July 17, 2018 and published as provided by law on July 26, 2018.

street, right of way or alley or an alternative construction method, which would not cause the relocation of Company installations or would minimize the cost or expense of relocation of Company installations, the City and Company shall work together to consider said alternative route or construction method. The City shall, in the extension or modification of streets and roads, make provision for the placement of company service lines and facilities on City-owned right of way without charge to Company. In planning for the extension or modification of streets, the City shall, to the extent practicable design such changes to limit the need for relocation of Company facilities. The City shall be responsible for surveying and staking the right-of-way for City projects that require the Company to relocate Company facilities. If requested, the City shall provide, at no cost to the Company, copies of the relocation plan and profile and cross section drawings. If vegetation and tree removals must be completed by the City as part of the City's project and are necessary whether or not utility facilities must be relocated, the City at its own cost shall be responsible for said removals. If the timing of vegetation and tree removals does not coincide with Company's facilities relocation schedule and the Company must remove vegetation and trees that are included in the City's portion of the project, the City shall either remove them or reimburse the Company for the expenses incurred to remove said materials. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

111.05 EXCAVATIONS. In making excavations in any streets, avenues and public places for the installation, maintenance or repair of conductor, conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets. The Company in making such excavations shall, if required by ordinance, obtain a City permit therefore and provide City representatives with advance notice prior to the actual commencement of the work, and shall comply with all provisions and requirements of the City in its regulation of the use of City right of way in performing such work. In emergencies which require immediate excavation, the Company may proceed with the work without first applying for or obtaining the permit, provided, however, that Company shall apply for and obtain the excavation permit as soon as possible after commencing such emergency work. The Company shall comply with all provisions and requirements of the City in its regulation of the use of City right of way in performing such work. The Company shall comply with all City ordinances regarding paving cuts, placement of facilities and restoration of pavement and other public infrastructure. The Company shall replace the surface, restoring the condition as existed prior to the Company's excavation but shall not be required to improve or modify the public right of way, sidewalks or other areas in or adjacent to the Company project to a condition superior to its immediate previously existing condition. Company shall complete all repairs in a timely manner. Company agrees any replacement of road surface shall conform to current City ordinances regarding its depth and composition.

111.06 UTILITY EASEMENTS. Vacating a street, avenue, alley, public ground or public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities and their replacement on, below, above, or beneath the vacated property. Prior to the City abandoning or vacating any street, avenue, alley or public ground where the Company has electric facilities, the City shall grant the Company a utility easement for said facilities.

111.07 RELOCATION NOT REQUIRED. The Company shall not be required to relocate, at its cost and expense, Company facilities in the public right of way that have been relocated at Company expense at the direction of the City in the previous five (5) years.

111.08 INDEMNIFICATION. The company shall indemnify, save and hold harmless the City from any and all claims, suits, losses, damages, costs or expenses, on account of injury or damage to any person or property, to the extent caused or occasioned by the Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by this franchise; provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages to the extent arising from the negligence of the City, its officers, employees or agents.

111.09 TRIMMING TREES. The pruning and removal of vegetation and trees shall be done in accordance with current nationally accepted safety and utility industry standards and federal and state law, rules and regulations. The Company is authorized and empowered to prune or remove at Company expense, any tree extending into any street, avenue, right of way, alley, public place or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches, or trunks from interfering with the wires and facilities of the Company. The pruning and removal of vegetation and trees shall be completed in accordance with nationally accepted safety and utility standards, NSI Z133.1-2012, American National Standard for Arboricultural Operations-Safety Requirements, and ANSI A300 (part 1) – 2008 Pruning, (Revision of ANSI A300 part 1-2001) American National Standard for Tree, Shrub, and other Woody Plant Management – Standard of Practices (Pruning) or subsequent revisions to these standards, and City ordinances regarding the pruning of trees that incorporate by reference that standard.

111.10 INFORMATION. Upon reasonable request, the Company shall provide the City, on a project specific basis, information indicating the horizontal location, relative to boundaries of the right-of-way, of all equipment which it owns or over which it has control that is located in City right of way, including documents, maps and other information in paper or electronic or other forms ("Information"). The Company and City recognize the Information may in whole or part be considered a confidential record under state or federal law or both. Therefore, the City shall not release any Information without prior consent of the Company and shall return the Information to Company upon request. City recognizes that Company claims the Information may constitute a trade secret or is otherwise protected from public disclosure by state or federal law on other grounds and agrees to retain the Information in its non-public files. Furthermore, the City agrees that no documents, maps, or other Information provided to the City by the Company shall be made available to the public or other entities if such documents or Information are exempt from disclosure under the provisions of the Freedom of Information Act, the Federal Energy Regulatory Commission Critical Energy Infrastructure requirements pursuant to 18 CFR 388.112 and 388.113, or Chapter 22 of the *Code of Iowa*, as such statutes and regulations may be amended from time to time. In the event any action at law, in equity or administrative is brought against the City regarding disclosure of any document which the Company has designated as a trade secret or as otherwise protected from disclosure, the Company shall assume, upon request of the City, the defense of said action and reimburse the City any and all costs, including attorney fees and penalties to the extent allowed by law.

111.11 APPLICABLE REGULATIONS. The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors and Iowa law. During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with and in accordance with the applicable regulations of the Iowa Utilities Board, the Company's tariff and made effective by the Iowa Utilities Board or its successors and Iowa law.

111.12 BINDING. This franchise shall apply to and bind the City and Company and their successors and assigns.

111.13 TERMINATION. Either City or Company ("party") may terminate this franchise if the other party shall be materially in breach of its provisions. Upon the occurrence of a material breach, the non-breaching party shall provide the breaching party with notification by certified mail specifying the alleged breach. The breaching party shall have sixty (60) days to cure the breach, unless it notifies the non-breaching party, and the parties agree upon a longer period for cure. If the breach is not cured within the cure period, the non-breaching party may terminate this franchise. A party shall not be considered to be in breach of this franchise if it has operated in compliance with state or federal law. A party shall not be considered to have breached this franchise if the alleged breach is the result of the actions of a third party or the other party.

111.14 SEVERABILTIY. If any of the provisions of this franchise ordinance are for any reason declared to be illegal or void, the lawful provisions of this franchise ordinance, which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the franchise ordinance contained no illegal or void provisions.

111.15 EFFECTIVE. This ordinance and the rights and privileges herein granted shall become effective and binding upon its approval and passage in accordance with Iowa law and the written acceptance by the Company. The City shall provide Company with an original signed and sealed copy of this ordinance within 10 days of its final passage. The Company shall, within thirty (30) days after the City Council approval of this ordinance, file in the office of the clerk of the City, its acceptance in writing of all the terms and provisions of this ordinance. Following City Council approval, this ordinance shall be published in accordance with the *Code of Iowa*. The effective date of this ordinance shall be the date of publication. In the event Company does not file its written acceptance of this ordinance within thirty (30) days after its approval by the City Council, this ordinance shall be void and of no effect.

111.16 EFFECTIVE DATE. Upon the effective date of this ordinance, all prior franchises granted to the Company to furnish electric service to the City and its inhabitants are hereby repealed and all other ordinances or parts of ordinances in conflict herewith are also hereby repealed.

(Ch. 111 – Ord. 328 – Jul. 18 Supp.)

CHAPTER 112

CABLE TELEVISION FRANCHISE

112.01 Grant of Franchise
112.02 Effective Date
112.03 Assignment or Transfer

112.01 GRANT OF FRANCHISE. A nonexclusive right is hereby granted to Mediacom (hereinafter "Company") its successors and assigns, to establish, construct, erect, operate, maintain, repair, replace, renew, reconstruct and remove a cable television system across public property in the City limits for a term of twenty-five (25) years, in accordance with the laws and regulations of the United States of America and the State of Iowa and the ordinances and regulations of the City, including the nonexclusive right, privilege and authority:

1. To sell and supply audio and video communication service to persons within the City;

2. To use public property within the City;

3. To engage in such further activities within the City as may now or hereafter be consistent with the generally accepted principles applicable to the operation of a cable television system.

112.02 EFFECTIVE DATE. The franchise shall become effective from and after the effective date of the ordinance codified herein and compliance by the Company with Federal Communications Commission rules and regulations.[†]

112.03 ASSIGNMENT OR TRANSFER. The Company shall not assign or transfer any right granted under the franchise to any other person, company or corporation without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Company shall have the right to assign the franchise to a corporation wholly owned by it or to a limited partnership of which the Company or other wholly owned subsidiary of the Company is a general partner without prior consent of the City.

[†] **EDITOR'S NOTE:** Ordinance No. 126, adopting a cable television franchise for the City, was passed and adopted in 1982.

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CHAPTER 113

CABLE TELEVISION REGULATIONS

113.01 Definitions
113.02 Use of Property
113.03 Taxes
113.04 Insurance
113.05 Repairs
113.06 Hold Harmless
113.07 Assignment
113.08 Insolvency of Grantee
113.09 Default of Grantee
113.10 Termination
113.11 Compliance with Applicable Laws
113.12 Installation and Maintenance of Property of Grantee
113.13 Interference
113.14 Installation of Cables
113.15 Restoration of Ground Surface
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113.17 Temporary Removal of Cables
113.18 Tree Trimming
113.19 Line Extensions
113.20 Service Requirements
113.21 Performance Standards
113.22 Channel Capacity and Performance
113.23 Installation and Maintenance of Subscriber Terminals in City Buildings and Schools
113.24 Telecast of Educational Activities
113.25 Program Alteration
113.26 Subscriber Rates and Charges
113.27 Service Rules and Regulations
113.28 Service Agreements
113.29 Payments to City
113.30 Injury to Property of Grantee
113.31 Intercepting Signals of Grantee
113.32 Filing of Reports
113.33 Filing of Maps and Plats
113.34 Filing of Communications with Regulatory Agencies
113.35 Access
113.36 Discrimination Prohibited
113.37 Other Business Activities Prohibited
113.38 Arbitration
113.39 Reservations

113.01 DEFINITIONS. The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. "Cable television system" means any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such services.

2. "Channel" means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.

3. "FCC" means the Federal Communications Commission.

4. "Franchise" means the rights, privileges, and authority granted by the City to the Grantee hereunder and includes all of the terms and conditions of this chapter.

5. "Grantee" means any person granted a franchise hereunder and its successors and assigns. When the context so requires, the term "Grantee" means and includes the Grantee, its officers, agents, employees, servants and independent contractors.

6. "Property of the Grantee" means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.

7. "Public property" means all property, real or personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

113.02 USE OF PROPERTY. The Grantee may use public property within the City and, with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereafter be consistent with generally

accepted principles applicable to the operation of a cable television system subject, however, to the following restrictions:

1. Laws and Regulations. The Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereafter be applicable thereto.

2. Restrictions. The Grantee shall not use or occupy or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:

A. Impair the owner's interest in or title thereto;

B. Impair any mortgage or lease as may now or hereinafter be applicable thereto;

C. Adversely affect the then value or character thereof;

D. Cause or be likely to cause structural damage thereto, or any part thereof;

E. Cause or be likely to cause any damage or injury to any utility service available thereto;

F. Create a public or private nuisance, cause any offensive or obnoxious vibrations, noise, odor or undesirable effect or interfere with the safety, comfort or convenience of the owner thereof, and persons lawfully on or about the same;

G. Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or

H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

113.03 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.

113.04 INSURANCE. The Grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

1. General Liability. 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 be not less than $100,000 as to any one person, $300,000 as to any one occurrence for injury or death to persons, and $100,000 for damages to property, with so-called umbrella coverage of at least $5,000,000.

2. Worker's Compensation. Worker's Compensation Insurance as provided by the laws of the State of Iowa, as amended.

3. Automobile. Automobile Insurance with limits of not less than $100,000/$300,000 of public liability coverage and automobile property damage insurance with a limit of not less than $100,000 covering all automotive equipment, with so-called umbrella coverage of at least $5,000,000.

4. Notice of Cancellation. All of said insurance coverage shall provide a ten (10) day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.

5. Copies Filed. Copies of all insurance policies required hereunder shall be furnished to and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be.

6. Defense Costs. The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

113.05 REPAIRS. During the term of the franchise, the Grantee shall, at its own expense, make all necessary repairs and replacements to the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as nonstructural, shall be made promptly, as and when needed.

113.06 HOLD HARMLESS. During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee forever agrees to indemnify the City against, and agrees to hold and save the City harmless from, any and all damage, injury, costs, expenses, liability, claims, settlements, judgments, decrees and awards of every kind and nature whatsoever, including attorney's fees, costs and disbursements, that may ever be claimed against the City by any person whatsoever, or on account of any actual or alleged loss, damage or injury to any property or person whatsoever, however arising from or related to or connected with, directly or indirectly, (a) injury to or death of any person, or loss, damage or injury to any property of the Grantee, and/or (b) the nonobservance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions, regulations or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Grantee under the franchise, (c) the nonobservance by the Grantee of any of the terms and conditions of the franchise, and/or (d) the granting of the franchise.

113.07 ASSIGNMENT. The Grantee shall not assign or transfer any right granted under this chapter to any other person without prior consent of the Council, which consent shall not be unreasonably withheld, provided that the Grantee shall have the right to assign the provisions of this chapter to a corporation wholly owned by the Grantee or to a limited partnership of which the Grantee or other wholly owned subsidiary of Heritage Communications, Inc. is a general partner without the prior consent of the City.

113.08 INSOLVENCY OF GRANTEE. In the event that the Grantee shall become insolvent, or 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, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

113.09 DEFAULT OF GRANTEE. In the event the Grantee shall fail to comply with any of the terms and conditions of the franchise within sixty (60) days after receipt of notice in

writing from the City specifying the failure or default, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee. This section shall not apply to failures or defaults beyond the reasonable control of the Grantee.

113.10 TERMINATION. In the event of termination or nonrenewal of the franchise for any cause, the Grantee at its own expense may remove all coaxial cable, amplifiers and any other items of equipment which may have been installed from time to time, provided, however, that in the event that Grantee's system is sold or transferred to a successor or substitute grantee, Grantee shall be precluded from removing said equipment under the terms of this section.

113.11 COMPLIANCE WITH APPLICABLE LAWS. During the term of the franchise, the Grantee shall comply with all governmental laws, ordinances, rules or regulations as may be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system.

113.12 INSTALLATION AND MAINTENANCE OF PROPERTY OF THE GRANTEE. During the term of the franchise, the property of the Grantee shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic or use of public property or private property.

113.13 INTERFERENCE. The Grantee's cable television system shall be so designed, engineered and maintained so as not to interfere with radio and television reception of persons who are not subscribers of the Grantee**.**

113.14 INSTALLATION OF CABLES. The Grantee shall have the right, privilege, and authority to lease, rent or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises with the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. The Grantee shall install its cable on the existing poles owned by other holders of public licenses and franchises with the City whenever possible for the installation of its cable. When installation of cable on poles is insufficient, or when holders of other public licenses or franchises have installed underground cable, then in that event, the cable used by the Grantee shall be installed underground.

113.15 RESTORATION OF GROUND SURFACE. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed, in as good a condition as before said work was commenced.

113.16 ALTERATION OF GRADE. In the event that during the term of the franchise, the City shall elect to alter or change the grade of any street, alley, or public way, the Grantee, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

113.17 TEMPORARY REMOVAL OF CABLES. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than five (5) days' advance notice to arrange for such temporary cable changes.

113.18 TREE TRIMMING. 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 branches of such trees from coming in contact with the cables of the Grantee. All trimming shall be done at the expense of the Grantee.

113.19 LINE EXTENSIONS. It shall be the obligation of the Grantee to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically unfeasible or economically noncompensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, Grantee shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there is an average of thirty-five (35) homes per each linear mile of new cable construction. In the event the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

113.20 SERVICE REQUIREMENTS. During the term of the franchise, the Grantee shall furnish reasonable, adequate and efficient cable television service to subscriber terminals. This requirement may be temporarily suspended due to circumstances beyond the control of the Grantee.

113.21 PERFORMANCE STANDARDS. The Grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper sound on typical standard television sets in good repair. The Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems.

113.22 CHANNEL CAPACITY AND PERFORMANCE. During the term of the franchise, the cable television system of the Grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

113.23 INSTALLATION AND MAINTENANCE OF SUBSCRIBER TERMINALS IN CITY BUILDINGS AND SCHOOLS. During the franchise, the Grantee shall at its sole cost, install and maintain a subscriber terminal in such buildings owned or used by the City, and in such buildings owned or used by recognized educational authorities within the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Such subscriber terminals shall be placed in such location within such buildings as may be designated by the governing body having jurisdiction thereof. This provision is meant to apply only to those buildings accessible to Grantee's system.

113.24 TELECAST OF EDUCATIONAL ACTIVITIES. The Grantee shall not cablecast, tape, reproduce or otherwise convey to its subscribers the activities of any

recognized educational authority, public or private, without the written consent of the governing body of such authority.

113.25 PROGRAM ALTERATION. Any signal received by the Grantee from a television broadcast station shall be cablecast by the Grantee in its entirety, as received, without alteration.

113.26 SUBSCRIBER RATES AND CHARGES. All basic rates and charges made by the Grantee for its services shall be fair, reasonable, just and uniform, designed to meet all necessary costs of service, including a fair rate of return on net valuation of its properties devoted thereto under efficient and economic management.

113.27 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.

113.28 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 the franchise.

113.29 PAYMENTS TO CITY. The Grantee shall pay to the City one percent (1%) of its annual "basic monthly cable television service" revenue for the service rendered to customers located within the City. All payments as required by the Grantee to the City shall be made annually and shall be due forty-five (45) days after the close of the year. For the purpose of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, per-channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system.

113.30 INJURY TO PROPERTY OF THE GRANTEE. No person shall wrongfully or unlawfully injure the property of the Grantee.

113.31 INTERCEPTING SIGNALS OF THE GRANTEE. No person shall wrongfully or unlawfully intercept the signals of the Grantee.

113.32 FILING OF REPORTS. On or before April 1 of each year, the Grantee shall file with the City copies of FCC Form 325 and FCC Form 326 for the preceding calendar year.

113.33 FILING OF MAPS AND PLATS. On or before April 1 of each year, the Grantee shall file with the City maps and plats showing the location and nature of all new property of the Grantee within the City as of the end of the preceding calendar year.

113.34 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES. The Grantee shall file with the City, copies of all petitions, applications and communications submitted by the Grantee to any regulatory agency having jurisdiction over the Grantee.

113.35 ACCESS. The Grantee shall and does hereby grant to the City the right to enter upon the property of the Grantee, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

113.36 DISCRIMINATION PROHIBITED. The Grantee shall not grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

113.37 OTHER BUSINESS ACTIVITIES PROHIBITED. During the initial term of the franchise or any extension thereof, the Grantee shall not engage in the business of selling, leasing, renting or servicing television or radio receivers, or their parts and accessories, and the Grantee shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

113.38 ARBITRATION. Any controversy between the City and the Grantee regarding the rights, duties and liabilities of either party under the franchise shall be settled by arbitration. This section shall not apply to termination proceedings under Section 113.10. Such arbitration shall be before three (3) disinterested arbitrators, one (1) named by the City, one (1) named by the Grantee, and one (1) named by the two (2) thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State.

113.39 RESERVATIONS. The right is reserved to the Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power.

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CHAPTER 114

REGULATION OF CABLE TELEVISION RATES AND ESTABLISHMENT OF CUSTOMER SERVICE STANDARDS

114.01 Purpose
114.02 Franchising Authority
114.03 Administration of Rules and Regulations
114.04 Rate Regulation Proceedings
114.05 Certification to FCC and Cable Operator
114.06 Cable Programming Service Tier
114.07 Delegation of Powers Permitted
114.08 Enforcement of Customer Service Standards
114.09 Cable Television Customer Service Standards
114.10 Filing of Customer Service Complaints
114.11 Cable Operator's Response to Service Complaint
114.12 Failure to Cure Deficiency in Standards
114.13 Inconsistent Provisions

114.01 PURPOSE. The Cable Television Consumer Protection and Competition Act of 1992 [Public Law 102-385] amended the Communications Act of 1934 [as codified in 47 United States Code §§521 et. seq.] and changed the manner in which cable television systems that are not subject to effective competition are regulated. The establishment of rates for the basic service tier and associated equipment now is subject to regulation by local governments acting as franchising authorities. It is determined that cable television operators doing business in the City should be subject to regulation by the City.

114.02 FRANCHISING AUTHORITY. The Council shall act as and shall exercise the powers of the Franchising Authority.

114.03 ADMINISTRATION OF RULES AND REGULATIONS. The Franchising Authority has the legal authority to administer and shall enforce against any non-municipally owned cable television system operator, as permitted therein, the provisions of Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission, concerning Cable Rate Regulation, 47 Code of Federal Regulations §§76.900 et. seq., as they currently read and hereafter may be amended, which are herewith incorporated by reference.

114.04 RATE REGULATION PROCEEDINGS. Any rate regulation proceedings conducted under Section 114.03 shall provide a reasonable opportunity for consideration of the views of any interested party, including but not limited to, the Franchising Authority or its designee, the Cable Operator, subscribers, and residents of the franchise area. In addition to all other provisions required by the laws of the State of Iowa and by this Code of Ordinances, and in order to provide for such opportunity for consideration of the views of any interested party, the Franchising Authority shall take the following actions:

1. The Franchising Authority shall publish in a newspaper of general circulation in the City, post in a conspicuous place in the City Hall, and mail, by certified mail, to the Cable Operator a public notice of the intent to conduct a public proceeding on basic service tier rates and/or charges for equipment to receive such basic service tier, as defined by the Federal Communications Commission ("FCC").

2. The public notice shall state, among other things, that cable television rates are subject to municipal review and explain the nature of the rate review in question; that any interested party has a right to participate in the proceeding; that public views may be submitted in the proceeding, explaining how they are to be submitted and the

deadline for submitting any such views; that a decision concerning the reasonableness of the cable television rates in question will be governed by the Rules and Regulations of the FCC; and that the decision of the Franchising Authority is subject to review by the FCC.

3. The Franchising Authority shall conduct a public proceeding to determine whether or not the rates or proposed rate increases are reasonable. The Franchising Authority may delegate by resolution the responsibility to conduct the proceeding to any duly qualified and eligible individual(s) or entity. If the Franchising Authority or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC Rules and Regulations, it may toll the effective date of the proposed rates for an additional period of time as permitted by the FCC Rules and Regulations, and issue any other necessary or appropriate order and give public notice accordingly.

4. In the course of the rate regulation proceeding, the Franchising Authority may request additional information from the Cable Operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the Franchising Authority shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

5. The Franchising Authority may request proprietary information, provided that the Franchising Authority shall consider a timely request from the Cable Operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on a cost-of-service showing submitted by the Cable Operator.

6. The Franchising Authority may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Iowa and by this Code of Ordinances to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents, and deposition.

7. Upon termination of the rate regulation proceeding, the Franchising Authority shall adopt by resolution and release a written decision as to whether or not the rates or proposed rate increase are reasonable or unreasonable, and, if unreasonable, its remedy, including prospective rate reduction, rate prescription, and refunds.

8. The Franchising Authority may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC Rules and Regulations, for charging an unreasonable rate or proposing an unreasonable rate increase. However, the Franchising Authority may impose monetary fines on a Cable Operator that does not comply with a rate decision or refund order of the Franchising Authority, directed specifically at the Cable Operator, pursuant to the laws of the State of Iowa and Section 1.10 of this Code of Ordinances. Each day a given violation continues shall be considered a separate offense.

9. Consistent with FCC Rules and Regulations, the Franchising Authority's decision may be reviewed only by the FCC.

10. The Franchising Authority shall be authorized, at any time, whether or not in the course of a rate regulation proceeding, to gather information as necessary to exercise its jurisdiction as authorized by the laws of the State of Iowa, the Communications Act of 1934, as amended, and the FCC Rules and Regulations. Any information submitted to the Franchising Authority shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

114.05 CERTIFICATION TO FCC AND CABLE OPERATOR. The Franchising Authority shall file with the FCC the required certification form (FCC Form 328) on September 1, 1993, or as soon thereafter as appropriate. Thirty days later, or as soon thereafter as appropriate, the Franchising Authority shall notify the Cable Operator that the Franchising Authority has been certified by the FCC and that it has adopted all necessary regulations so as to begin regulating basic service tier cable television rates and equipment charges.

114.06 CABLE PROGRAMMING SERVICE TIER. With regard to the cable programming service tier, as defined by the Communications Act of 1934, as amended, and the FCC Rules and Regulations, and over which the Franchising Authority is not empowered to exercise rate regulation, the Cable Operator shall give notice to the Franchising Authority of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program services included in the tier or tiers. Said notice shall be provided within five (5) business days after the change becomes effective.

114.07 DELEGATION OF POWERS PERMITTED. The Franchising Authority may delegate by resolution its powers to enforce this chapter to municipal employees or officers (the "cable official"). The cable official will have the authority to:

1. Administer oaths and affirmations;

2. Issue subpoenas;

3. Examine witnesses;

4. Rule upon questions of evidence;

5. Take or cause depositions to be taken;

6. Conduct proceedings in accordance with this chapter;

7. Exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings;

8. Hold conferences for the settlement or simplification of the issues by consent of the parties; and

9. Take actions and make decisions or recommend decisions in conformity with this chapter.

114.08 ENFORCEMENT OF CUSTOMER SERVICE STANDARDS. The Franchising Authority shall enforce the customer service standards set forth in the FCC regulations promulgated in 47 Code of Federal Regulations §76.309(c), as they currently read and hereafter may be amended. The Cable Operator shall be subject to the customer service

standards of this chapter ninety (90) days after the Franchising Authority has provided the Cable Operator with written notice of its intent to enforce the standards.

114.09 CABLE TELEVISION CUSTOMER SERVICE STANDARDS. A Cable Operator shall be subject to the following customer service standards:

1. Cable System Office Hours and Telephone Availability.

A. The Cable Operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(1) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(2) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

B. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.

C. The Cable Operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

D. Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.

E. Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

2. Installations, Outages and Service Calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:

A. Standard installation will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

B. Excluding conditions beyond the control of the Cable Operator, the Cable Operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The Cable Operator must begin actions to correct the service problems the next business day after notification of the service problem.

C. The "appointment window" alternatives for installations, service calls, and the installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. The Cable

Operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

D. A Cable Operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

E. If a Cable Operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

3. Communications Between Cable Operators and Cable Subscribers.

A. The Cable Operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(1) Products and services offered;

(2) Prices and options for programming services and conditions of subscription to programming and other services;

(3) Installation and service maintenance policies;

(4) Instructions on how to use the cable service;

(5) Channel positions of programming carried on the system; and

(6) Billing and complaint procedures, including the address and telephone number of the Franchising Authority's office [City Hall].

Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Cable Operator. In addition, the Cable Operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by this subsection.

B. Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, the Cable Operator must respond to a written complaint from a subscriber within thirty (30) days.

C. Refund checks will be issued promptly, but no later than either:

(1) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(2) The return of the equipment supplied by the Cable Operator if service is terminated.

D. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

4. Definitions.

A. "Normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

B. "Normal operating conditions" means those service conditions which are within the control of the Cable Operator. Those conditions which are *not* within the control of the Cable Operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which *are* ordinarily within the control of the Cable Operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

C. "Service interruption" means the loss of picture or sound on one or more cable channels.

114.10 FILING OF CUSTOMER SERVICE COMPLAINTS. Any customer may file a complaint regarding service with the Franchising Authority, which will, in turn, forward the complaint to the Cable Operator. Any customer may file a service complaint directly with the Cable Operator, in which event the Cable Operator shall, within five (5) days of receipt, forward a copy of the complaint to the Franchising Authority.

114.11 CABLE OPERATOR'S RESPONSE TO SERVICE COMPLAINT. The Cable Operator shall immediately respond to any customer's service complaint, and shall, within thirty (30) days of its receipt of the complaint, cure any deficiency in the customer service standards prescribed in Section 114.09. The Cable Operator shall, within thirty (30) days of its receipt of the complaint and in writing, notify the Franchising Authority of the disposition of the complaint.

114.12 FAILURE TO CURE DEFICIENCY IN STANDARDS. Any Cable Operator which fails within thirty (30) days of receipt of a complaint to cure any deficiency in the customer service standards prescribed in Section 114.09 shall be in violation of this Code of Ordinances. Each day a given violation continues shall be considered a separate offense.

114.13 INCONSISTENT PROVISIONS. Insofar as the provisions of this chapter are inconsistent with any other provisions of the Code of Ordinances, the provisions of this chapter shall be controlling.

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CHAPTER 115

CEMETERY

115.01 Definition
115.02 Trusteeship
115.03 Operation of the Cemetery
115.04 Records
115.05 Sale of Interment Rights
115.06 Rules and Regulations
115.07 Hours

115.01 DEFINITION. The term "cemetery" means the Oakland Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.

(Code of Iowa, Sec. 523I.501)

115.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the *Code of Iowa*, the City Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

(Code of Iowa, Sec. 523I.502)

115.03 OPERATION OF THE CEMETERY. The Council shall operate the cemetery in accordance with the rules and regulations therefor.

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

115.04 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.

   A. The name and last known address of each owner or previous owner of interment rights.

   B. The date of each purchase or transfer of interment rights.

   C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.

2. Interments.

   A. The date the remains are interred.

   B. The name, date of birth, and date of death of the decedent interred, if those facts can be conveniently obtained.

   C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

115.05 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk

where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

(Code of Iowa, Sec. 523I.310)

115.06 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions, and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa,* who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery.

(Code of Iowa, Sec. 523I.304)

115.07 HOURS. No person shall enter or remain in the cemetery between the hours of 8:00 p.m. each day until 7:00 a.m. the following day, except when engaged in the authorized burial of bodies or attending a funeral.

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CHAPTER 120

LIQUOR LICENSES AND WINE AND BEER PERMITS

120.01 License or Permit Required
120.02 General Prohibition
120.03 Investigation
120.04 Action by Council
120.05 Prohibited Sales and Acts
120.06 Amusement Devices

120.01 LICENSE OR PERMIT REQUIRED. No person shall manufacture for sale, import, sell, or offer or keep for sale, alcoholic liquor, wine, or beer without first securing a liquor control license, wine permit or beer permit in accordance with the provisions of Chapter 123 of the Code of Iowa.

(Code of Iowa, Sec. 123.22, 123.122 & 123.171)

120.02 GENERAL PROHIBITION. It is unlawful to manufacture for sale, sell, offer or keep for sale, possess or transport alcoholic liquor, wine or beer except upon the terms, conditions, limitations and restrictions enumerated in Chapter 123 of the Code of Iowa, and a license or permit may be suspended or revoked or a civil penalty may be imposed for a violation thereof.

(Code of Iowa, Sec. 123.2, 123.39 & 123.50)

120.03 INVESTIGATION. Upon receipt of an application for a liquor license, wine or beer permit, the Clerk may forward it to the Police Chief, who shall then conduct an investigation and submit a written report as to the truth of the facts averred in the application. The Fire Chief may also inspect the premises to determine if they conform to the requirements of the City. The Council shall not approve an application for a license or permit for any premises which does not conform to the applicable law and ordinances, resolutions and regulations of the City.

(Code of Iowa, Sec. 123.30)

120.04 ACTION BY COUNCIL. The Council shall either approve or disapprove the issuance of the liquor control license or retail wine or beer permit and shall endorse its approval or disapproval on the application, and thereafter the application, necessary fee and bond, if required, shall be forwarded to the Alcoholic Beverages Division of the State Department of Commerce for such further action as is provided by law.

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

120.05 PROHIBITED SALES AND ACTS. A person or club holding a liquor license or retail wine or beer permit and the person's or club's agents or employees shall not do any of the following:

1. Sell, dispense, or give to any intoxicated person, or one simulating intoxication, any alcoholic liquor, wine, or beer.

(Code of Iowa, Sec. 123.49 [1])

2. Sell or dispense any alcoholic beverage, wine, or beer on the premises covered by the license or permit, or permit its consumption thereon between the hours of 2:00 a.m. and 6:00 a.m. on a weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday; however, a holder of a license or permit granted the privilege of selling alcoholic liquor, beer or wine on Sunday may

sell or dispense alcoholic liquor, beer or wine between the hours of 8:00 a.m. on Sunday and 2:00 a.m. of the following Monday, and further provided that a holder of any class of liquor control license or the holder of a class "B" beer permit may sell or dispense alcoholic liquor, wine or beer for consumption on the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on Monday when that Monday is New Year's Day and beer for consumption off the premises between the hours of 8:00 a.m. on Sunday and 2:00 a.m. on the following Monday when that Sunday is the day before New Year's Day.

(Code of Iowa, Sec. 123.49 [2b and 2k] & 123.150)

3. Sell alcoholic beverages, wine, or beer to any person on credit, except with a bona fide credit card. This provision does not apply to sales by a club to its members, to sales by a hotel or motel to bona fide registered guests or to retail sales by the managing entity of a convention center, civic center, or events center.

(Code of Iowa, Sec. 123.49[2c])

4. Employ a person under eighteen (18) years of age in the sale or serving of alcoholic liquor, wine or beer for consumption on the premises where sold.

(Code of Iowa, Sec. 123.49 [2f])

5. In the case of a retail beer or wine permittee, knowingly allow the mixing or adding of alcohol or any alcoholic beverage to beer, wine or any other beverage in or about the permittee's place of business.

(Code of Iowa, Sec. 123.49 [2i])

6. Knowingly permit any gambling, except in accordance with Iowa law, or knowingly permit any solicitation for immoral purposes, or immoral or disorderly conduct on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2a])

7. Knowingly permit or engage in any criminal activity on the premises covered by the license or permit.

(Code of Iowa, Sec. 123.49 [2j])

8. Keep on premises covered by a liquor control license any alcoholic liquor in any container except the original package purchased from the Alcoholic Beverages Division of the State Department of Commerce and except mixed drinks or cocktails mixed on the premises for immediate consumption.

(Code of Iowa, Sec. 123.49 [2d])

9. Reuse for packaging alcoholic liquor or wine any container or receptacle used originally for packaging alcoholic liquor or wine; or adulterate, by the addition of any substance, the contents or remaining contents of an original package of an alcoholic liquor or wine; or knowingly possess any original package which has been reused or adulterated.

(Code of Iowa, Sec. 123.49 [2e])

10. Allow any person other than the licensee, permittee or employees of the licensee or permittee to use or keep on the licensed premises any alcoholic liquor in any bottle or other container which is designed for the transporting of such beverages, except as allowed by State law.

(Code of Iowa, Sec. 123.49 [2g])

11. Sell, give, possess, or otherwise supply a machine which is used to vaporize an alcoholic beverage for the purpose of being consumed in a vaporized form.

120.06 AMUSEMENT DEVICES. The following provisions pertain to electronic or mechanical amusement devices, which are allowed only in premises with a liquor control license or beer permit as specifically authorized in Section 99B.10 of the *Code of Iowa*.

(Code of Iowa, Sec. 99B.10C)

1. As used in this section an "electronic or mechanical amusement device" means a device that awards a prize redeemable for merchandise on the premises where the device is located and which is required to be registered with the Iowa Department of Inspection and Appeals.

2. It is unlawful for any person under the age of twenty-one (21) to participate in the operation of an electrical or mechanical amusement device.

3. It is unlawful for any person owning or leasing an electrical or mechanical amusement device, or an employee of a person owning or leasing an electrical or mechanical amusement device, to knowingly allow a person under the age of 21 to participate in the operation of an electrical or mechanical amusement device.

4. It is unlawful for any person to knowingly participate in the operation of an electrical or mechanical amusement device with a person under the age of 21.

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CHAPTER 121

CIGARETTE AND TOBACCO PERMITS

121.01 Definitions
121.02 Permit Required
121.03 Application
121.04 Fees
121.05 Issuance and Expiration
121.06 Refunds
121.07 Persons Under Legal Age
121.08 Self-Service Sales Prohibited
121.09 Permit Revocation

121.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 453A.1)

1. "Carton" means a box or container of any kind in which ten or more packages or packs of cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.

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

3. "Package" or "pack" means a container of any kind in which cigarettes or tobacco products are offered for sale, sold, or otherwise distributed to consumers.

4. "Place of business" means any place where cigarettes or tobacco products are sold, stored or kept for the purpose of sale or consumption by a retailer.

5. "Retailer" means every person who sells, distributes or offers for sale for consumption, or possesses for the purpose of sale for consumption, cigarettes, irrespective of the quantity or amount or the number of sales or who engages in the business of selling tobacco products to ultimate consumers.

6. "Self-service display" means any manner of product display, placement, or storage from which a person purchasing the product may take possession of the product, prior to purchase, without assistance from the retailer or employee of the retailer, in removing the product from a restricted access location.

7. "Tobacco products" means the following: cigars; little cigars; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts or refuse scraps, clippings, cuttings and sweepings of tobacco; and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or for both chewing and smoking, but does not mean cigarettes.

121.02 PERMIT REQUIRED.

1. Cigarette Permits. It is unlawful for any person, other than a holder of a retail permit, to sell cigarettes at retail and no retailer shall distribute, sell, or solicit the sale of any cigarettes within the City without a valid permit for each place of business.

The permit shall, at all times, be publicly displayed at the place of business so as to be easily seen by the public and the persons authorized to inspect the place of business.

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

2. Tobacco Permits. It is unlawful for any person to engage in the business of a retailer of tobacco products at any place of business without first having received a permit as a tobacco products retailer for each place of business owned or operated by the retailer.

(Code of Iowa, Sec. 453A.47A)

A retailer who holds a cigarette permit is not required to also obtain a tobacco permit. However, if a retailer only holds a cigarette permit and that permit is suspended, revoked, or expired, the retailer shall not sell any cigarettes or tobacco products during such time.

121.03 APPLICATION. A completed application on forms furnished by the State Department of Revenue or on forms made available or approved by the Department and accompanied by the required fee shall be filed with the Clerk. Renewal applications shall be filed at least five (5) days prior to the last regular meeting of the Council in June. If a renewal application is not timely filed, and a special Council meeting is called to act on the application, the costs of such special meeting shall be paid by the applicant.

(Code of Iowa, Sec. 453A.13 & 453A.47A)

121.04 FEES. The fee for a retail cigarette or tobacco permit shall be as follows:

(Code of Iowa, Sec. 453A.13 & 453A.47A)

FOR PERMITS GRANTED DURING:	FEE:
July, August or September	$ 75.00
October, November or December	$ 56.25
January, February or March	$ 37.50
April, May or June	$ 18.75

121.05 ISSUANCE AND EXPIRATION. Upon proper application and payment of the required fee, a permit shall be issued. Each permit issued shall describe clearly the place of business for which it is issued and shall be nonassignable. All permits expire on June 30 of each year. The Clerk shall submit a duplicate of any application for a permit, and any permit issued, to the Iowa Department of Public Health within thirty (30) days of issuance.

121.06 REFUNDS. A retailer may surrender an unrevoked permit and receive a refund from the City, except during April, May, or June, in accordance with the schedule of refunds as provided in Section 453A.13 or 453A.47A of the *Code of Iowa*.

(Code of Iowa, 453A.13 & 453A.47A)

121.07 PERSONS UNDER LEGAL AGE. No person shall sell, give, or otherwise supply any tobacco, tobacco products, or cigarettes to any person under eighteen (18) years of age. The provision of this section includes prohibiting a minor from purchasing cigarettes or tobacco products from a vending machine. If a retailer or employee of a retailer violates the provisions of this section, the Council shall, after written notice and hearing, and in addition to the other penalties fixed for such violation, assess the following:

1. For a first violation, the retailer shall be assessed a civil penalty in the amount of three hundred dollars ($300.00). Failure to pay the civil penalty as ordered under this subsection shall result in automatic suspension of the permit for a period of fourteen (14) days.

2. For a second violation within a period of two years, the retailer shall be assessed a civil penalty in the amount of one thousand five hundred dollars ($1,500.00) or the retailer's permit shall be suspended for a period of thirty (30) days. The retailer may select its preference in the penalty to be applied under this subsection.

3. For a third violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of 30 days.

4. For a fourth violation within a period of three years, the retailer shall be assessed a civil penalty in the amount of $1,500.00 and the retailer's permit shall be suspended for a period of sixty (60) days.

5. For a fifth violation with a period of four years, the retailer's permit shall be revoked.

The Clerk shall give ten (10) days' written notice to the retailer by mailing a copy of the notice to the place of business as it appears on the application for a permit. The notice shall state the reason for the contemplated action and the time and place at which the retailer may appear and be heard.

(Code of Iowa, Sec. 453A.2, 453A.22 and 453A.36[6])

121.08 SELF-SERVICE SALES PROHIBITED. Beginning January 1, 1999, except for the sale of cigarettes through a cigarette vending machine as provided in Section 453A.36(6) of the *Code of Iowa*, a retailer shall not sell or offer for sale cigarettes or tobacco products, in a quantity of less than a carton, through the use of a self-service display.

(Code of Iowa, Sec. 453A.36A)

121.09 PERMIT REVOCATION. Following a written notice and an opportunity for a hearing, as provided by the *Code of Iowa*, the Council may also revoke a permit issued pursuant to this chapter for a violation of Division I of Chapter 453A of the *Code of Iowa* or any rule adopted thereunder. If a permit is revoked, a new permit shall not be issued to the permit holder for any place of business, or to any other person for the place of business at which the violation occurred, until one year has expired from the date of revocation, unless good cause to the contrary is shown to the Council. The Clerk shall report the revocation or suspension of a retail permit to the Iowa Department of Public Health within thirty (30) days of the revocation or suspension.

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

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CHAPTER 122

PEDDLERS, SOLICITORS AND TRANSIENT MERCHANTS

122.01 Purpose
122.02 Definitions
122.03 License Required
122.04 Application for License
122.05 License Fees
122.06 Bond Required
122.07 License Issued
122.08 Display of License
122.09 License Not Transferable
122.10 Time Restriction
122.11 Revocation of License
122.12 Notice
122.13 Hearing
122.14 Record and Determination
122.15 Effect of Revocation
122.16 Rebates
122.17 License Exemptions
122.18 Charitable and Nonprofit Organizations

122.01 PURPOSE. The purpose of this chapter is to protect residents of the City against fraud, unfair competition and intrusion into the privacy of their homes by licensing and regulating peddlers, solicitors and transient merchants.

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

1. "Peddler" means any person carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house to house or upon the public street.

2. "Solicitor" means any person who solicits or attempts to solicit from house to house or upon the public street any contribution or donation or any order for goods, services, subscriptions or merchandise to be delivered at a future date.

3. "Transient merchant" means any person 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, or who operates out of a vehicle which is parked anywhere within the City limits. 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 does not exempt any person from being considered a transient merchant.

122.03 LICENSE REQUIRED. Any person engaging in peddling, soliciting or in the business of a transient merchant in the City without first obtaining a license as herein provided is in violation of this chapter.

122.04 APPLICATION FOR LICENSE. An application in writing shall be filed with the Clerk for a license under this chapter. Such application shall set forth the applicant's name, permanent and local address and business address if any. The application shall also set forth the applicant's employer, if any, and the employer's address, the nature of the applicant's business, the last three places of such business and the length of time sought to be covered by the license. An application fee of ten dollars ($10.00) shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

122.05 LICENSE FEES. The following license fees shall be paid to the Clerk prior to the issuance of any license. Solicitors (for each person actually soliciting—principal or agent), peddlers or transient merchants:

1. For one day ..... $ 100.00
2. For one week ..... $ 200.00
3. For one month..... $ 500.00
4. For one month to six months ..... $ 1,000.00
5. For one year or major part thereof..... $ 1,500.00

122.06 BOND REQUIRED. Before a license under this chapter is issued to a transient merchant, an applicant shall provide to the Clerk evidence that the applicant has filed a bond with the Secretary of State in accordance with Chapter 9C of the Code of Iowa.

122.07 LICENSE ISSUED. If the Clerk finds the application is completed in conformance with the requirements of this chapter, the facts stated therein are found to be correct and the license fee paid, a license shall be issued immediately.

122.08 DISPLAY OF LICENSE. Each solicitor or peddler shall keep such license in possession at all times while doing business in the City and shall, upon the request of prospective customers, exhibit the license as evidence of compliance with all requirements of this chapter. Each transient merchant shall display publicly such merchant's license in the merchant's place of business.

122.09 LICENSE NOT TRANSFERABLE. Licenses issued under the provisions of this chapter are not transferable in any situation and are to be applicable only to the person filing the application.

122.10 TIME RESTRICTION. All peddler's and solicitor's licenses shall provide that said licenses are in force and effect only between the hours of 8:00 a.m. and 6:00 p.m.

122.11 REVOCATION OF LICENSE. The Council, after notice and hearing, may revoke any license issued under this chapter for the following reasons:

1. Fraudulent Statements. The licensee has made fraudulent statements in the application for the license or in the conduct of the business.

2. Violation of Law. The licensee has violated this chapter or has otherwise conducted the business in an unlawful manner.

3. Endangered Public Welfare, Health or Safety. The licensee has conducted the business in such manner as to endanger the public welfare, safety, order or morals.

122.12 NOTICE. The Clerk shall send a notice to the licensee at the licensee's local address, not less than ten (10) days before the date set for a hearing on the possible revocation of a license. Such notice shall contain particulars of the complaints against the licensee, the ordinance provisions or State statutes allegedly violated, and the date, time and place for hearing on the matter.

122.13 HEARING. The Council shall conduct a hearing at which both the licensee and any complainants shall be present to determine the truth of the facts alleged in the complaint and notice. Should the licensee, or authorized representative, fail to appear without good cause, the Council may proceed to a determination of the complaint.

122.14 RECORD AND DETERMINATION. The Council shall make and record findings of fact and conclusions of law, and shall revoke a license only when upon review of the entire record the Council finds clear and convincing evidence of substantial violation of this chapter or State law.

122.15 EFFECT OF REVOCATION. Revocation of any license shall bar the licensee from being eligible for any license under this chapter for a period of one year from the date of the revocation.

122.16 REBATES. No rebate shall be made upon revocation or upon surrender of any license before the expiration of the full period for which it was issued.

122.17 LICENSE EXEMPTIONS. The following are excluded from the application of this chapter.

1. Newspapers. Persons delivering, collecting for or selling subscriptions to newspapers.

2. Club Members. Members of local civic and service clubs, Boy Scout, Girl Scout, 4-H Clubs, Future Farmers of America and similar organizations.

3. Local Residents and Farmers. Local residents and farmers who offer for sale their own products.

4. Students. Students representing the Adel - De Soto - Minburn School District conducting projects sponsored by organizations recognized by the school.

5. Route Sales. Route delivery persons who only incidentally solicit additional business or make special sales.

6. Resale or Institutional Use. Persons customarily calling on businesses or institutions for the purposes of selling products for resale or institutional use.

122.18 CHARITABLE AND NONPROFIT ORGANIZATIONS. Authorized representatives of charitable or nonprofit organizations operating under the provisions of Chapter 504A of the Code of Iowa desiring to solicit money or to distribute literature are exempt from the operation of Sections 122.04 and 122.05. All such organizations are required to submit in writing to the Clerk the name and purpose of the cause for which such activities are sought, names and addresses of the officers and directors of the organization, the period during which such activities are to be carried on, and whether any commissions, fees or wages are to be charged by the solicitor and the amount thereof. If the Clerk finds that the organization is a bona fide charity or nonprofit organization the Clerk shall issue, free of charge, a license containing the above information to the applicant.

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CHAPTER 123

PUBLIC DANCES

123.01 Compliance
123.02 License Required
123.03 License Application
123.04 License Fee
123.05 Restrictions
123.06 License Assignability
123.07 Display of License
123.08 Standards for Dance Permits
123.09 Description of Premises
123.10 Disorderly Conduct
123.11 Hours of Operation
123.12 Suspension or Revocation of License

123.01 COMPLIANCE. Any dances held within the City to which the public may gain admission, with or without payment of a fee, shall be subject to this chapter and shall be subject to supervision and regulation as required by this chapter.

123.02 LICENSE REQUIRED. No person shall conduct, host, organize, or sponsor a dance open to the public without first obtaining a license as provided in this chapter. This chapter, however, shall not be deemed to apply to dance clubs with a specific membership nor to persons conducting dance classes.

123.03 LICENSE APPLICATION.

1. All applicants for a public dance license shall apply in writing to the City Clerk. The City Clerk shall forward the application to the appropriate departments for inspections.

2. All applications shall be made in the name of the owner of the business, whether an individual, a partnership, or a corporation, and shall contain the following:

   A. The full name, residence, address, business address, date of birth and social security number of the applicant and, when the applicant is a partnership or corporation, of the partners or officers.

   B. If the applicant is a corporation, the name of the corporation shall be set forth exactly as shown in its articles of incorporation together with the names and residence addresses of each of the officers, directors, and each stockholder holding more than ten percent of the stock of the corporation; if the applicant is a partnership, the applicant shall set forth the name and residence address of each of the partners, including limited partners. If one or more of the partners is a corporation, the subsections of this section pertaining to a corporate application apply.

   C. The name and address of the owner of the building where such dance will be located.

3. Upon receipt of departmental inspections and if the City Clerk finds that the applicant has fully complied with all requirements of this chapter and all applicable ordinances and codes regulating fire, buildings, health and zoning and that the applicant is of good moral character, the City Clerk shall approve the application and shall authorize the issuance of a license to conduct public dances.

123.04 LICENSE FEE. An annual license fee of $150.00 shall be collected prior to the issuance of an annual public dance license. However, if the applicant conducts dances at

intervals of once per calendar month, an occasional public dance license may be obtained for $50.00. All such licenses shall expire on December 31 of the year of issuance.

123.05 RESTRICTIONS. Every annual or occasional license authorized under this chapter shall be limited to a single property or place designated in the license. No dance shall be held by the licensee at any place other than so designated. For the purpose of this chapter, a single property or place shall include the dance room, check room, lounge or other room constituting a suite in connection therewith.

123.06 LICENSE ASSIGNABILITY. The license granted under this chapter shall be personal to the licensee and shall not be assignable.

123.07 DISPLAY OF LICENSE. No public dance shall be conducted unless the license required therefor is conspicuously displayed on the walls of the place designated therein or otherwise posted on the premises designated so that all persons visiting the premises may readily see it.

123.08 STANDARDS FOR DANCE PERMITS.

1. The premises for any public dance shall provide for actual dancing a floor space of at least 100 square feet. The room where dancing is conducted shall be illuminated to a minimum of two foot-candles, as measured by a photometer at a plane 30 inches above the floor, at any point in the room. Such building or structure shall also be equipped with two exits that will furnish ample protection in case of fire, and all materials used for interior decoration shall be fire resistant or so chemically treated as to be fire resistant.

2. The premises of a beer permit or liquor license holder, where public dancing is permitted, shall be subject to other structural requirements as may be required by the provisions of this Code, State law, or City ordinance.

123.09 DESCRIPTION OF PREMISES. The premises used for a public dance shall be described in the license by street name and number or other definite description.

123.10 DISORDERLY CONDUCT. No dance licensee or employee or agent thereof shall permit such licensed premises to become disorderly. The term "disorderly" as used in this section shall have the meaning contained in Section 723.4, Code of Iowa.

123.11 HOURS OF OPERATION. No person shall permit any public dance to remain open or permit any public dancing between the hours of 2:00 a.m. and 6:00 a.m., Monday through Saturday, and between the hours of 2:00 a.m. and 8:00 a.m. Sunday.

123.12 SUSPENSION OR REVOCATION OF LICENSE. Any license issued pursuant to this chapter may be suspended or revoked for violations of this chapter or any other chapter of this Code.

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CHAPTER 124

MOTOR VEHICLE DEALERS AND AUCTIONEERS

124.01 Definitions
124.02 License Required
124.03 Application for License
124.04 Issuance or Rejection of License
124.05 License Prerequisites
124.06 License Restrictions
124.07 License Fee
124.08 Business Requirements
124.09 Lot Requirements and Service Facilities
124.10 Sale by Way of Public Vendor, Auction, or Outcry
124.11 Dealership Parking Space Surfaces
124.12 Additional Rules and Regulations
124.13 Violation; Penalty

124.01 DEFINITIONS. The words set forth in this section, as used in this chapter, have the following meanings, unless a different meaning appears from the context:

1. "Principal place of business" means a designated location wherein proper and adequate facilities are maintained for displaying, reconditioning, and repairing new and used motor vehicles.

2. "Selling" includes bartering, exchanging, or otherwise dealing in new or used motor vehicles or both.

3. "Sub lot" means a new and/or used motor vehicle lot owned by a person who has been issued a new and/or used motor vehicle license for a principal place of business.

124.02 LICENSE REQUIRED. No person shall engage in the business of selling new or used motor vehicles, or both, without first having obtained a license therefor as provided in this chapter.

124.03 APPLICATION FOR LICENSE. Application for such license shall be made on a verified written statement to the City Clerk and shall be accompanied by a $25.00 application fee and shall state:

1. The name of the applicant and, if a corporation, the name and principal officers and the name of the person the corporation shall designate as a manger;

2. The location where the business is to be conducted;

3. The length of time the applicant has resided in the City and, if a corporation, the length of time the manager or person in charge has resided in the City;

4. The type of shop the applicant maintains in connection with its principal place of business and whether it is equipped to service and repair the types and makes of motor vehicles which the applicant proposes to sell;

5. The approval of required facilities by the State Department of Public Safety;

6. Such other reasonable and pertinent information as the City Council by resolution shall from time to time require.

124.04 ISSUANCE OR REJECTION OF LICENSE. A motor vehicle dealer or auctioneer business license application shall be filed with the City Clerk, who shall issue or deny a license based upon whether the applicant meets the requirements imposed by this chapter. The application shall be accompanied with a site plan which contains all of the

information set forth in Section 156.03 of this Code of Ordinances. The Clerk shall forward the application to the appropriate departments for confirmation that the site plan meets all of the requirements for the proposed business. Denial of a license may be appealed in writing to the City Council within ten days of the notice of denial.

124.05 LICENSE PREREQUISITES. No license shall be given to any applicant unless the applicant has shop facilities and equipment in connection with the applicant's principal place of business to satisfactorily repair and service the makes and types of motor vehicles that the applicant proposes to sell, and at all times has a competent mechanic in charge; and meets the other requirements imposed by this chapter.

124.06 LICENSE RESTRICTIONS. No license shall be issued to any person unless the business so licensed is operated by and for the benefit of the person applying for such license. It is unlawful for any licensee under this chapter to engage in such business unless such licensee is the owner thereof or unless the business is conducted for the benefit of such licensee.

124.07 LICENSE FEE. The annual license fee for such license shall be one hundred dollars ($100.00) for all new motor vehicle dealers and fifty dollars ($50.00) for all used motor vehicle dealers.

124.08 BUSINESS REQUIREMENTS. It shall be the duty of the City Clerk to verify the following:

1. The applicant proposes to engage in the selling of new or used motor vehicles, or both, as a permanent business, and the business of selling motor vehicles constitutes the applicant's primary business venture for the proposed location.

2. The proposed business shall not create a nuisance or fire hazard or jeopardize the public safety.

3. The applicant has shop facilities in connection with its principal place of business, equipped or operated so as to satisfactorily repair and service the makes and types of motor vehicles which it proposes to sell, and which facilities meet the other requirements of this chapter.

124.09 LOT REQUIREMENTS AND SERVICE FACILITIES.

1. The minimum square feet for a new or used motor vehicle lot, either as a principal place of business or as a sub lot, shall be 10,000 square feet.

2. The principal place of business shall have repair stalls and shop facilities in conformance with the following requirements:

Maximum Number of Motor Vehicles	Number of Repair Stalls
1-10	1
11-20	2
21-50	4
51-100	6
101-200	8
More than 200	10

The following restrictions shall apply to the above-mentioned requirement:

A. All the shop facilities required by this chapter must be owned, leased, or otherwise controlled by the licensee or applicant.

B. Under no circumstance will the mere borrowing of another's shop facilities in order to comply with this chapter be deemed compliance.

C. Areas separated by a street or alley may be considered as a single principal lot or sub lot only if the areas are within 100 feet of each other.

3. The licensee shall be entitled to have one motor vehicle for each 240 square feet in the licensed area.

4. Notwithstanding the requirements for off-street parking contained in any other provision of this Code of Ordinances, motor vehicle dealerships shall provide at least one off-street parking space for customer use for each repair stall required under this chapter.

124.10 SALE BY WAY OF PUBLIC VENDOR, AUCTION, OR OUTCRY.

1. No licensee under this chapter or any other person shall offer for sale or sell by way of public vendor, auction, or outcry within the City, any new or used motor vehicles, or both, without first having obtained a permit and executed a bond to the City as provided in subsection 7 of this section.

2. Application for a permit to sell by auction or outcry shall be made to the City Clerk and shall be verified, stating the name and address of the applicant, the location of the place of premises where such auction is to be held, the date when such auction is to begin, and the length of time for which the permit is desired. The application shall also state the name of the owner of the motor vehicles which are to be so offered for sale or sold by auction.

3. The applicant for a permit to offer for sale or sell by auction under this chapter shall file with the application a full and complete inventory, giving model, type, serial number, motor number, and State license number (if previously registered) of the motor vehicles which are to be offered for sale or sold. The motor vehicles enumerated in said inventory shall be numbered and tags corresponding to the numbers so shown on the inventory shall be placed on each motor vehicle when offered for sale. All motor vehicles proposed to be sold at public auction as provided for in this section shall be on display for public inspection at the place where the auction is to be held for a period of one week prior to the date of the sale. No motor vehicle other than those so inventoried shall be offered for sale or auctioned at any auction held under a permit granted for such application.

4. The application for a permit and the inventory required by this chapter shall be filed with the City Clerk at least 30 days prior to the granting of such permit. The application and inventory when filed shall be referred to the City Council and, if it appears that the applicant has complied with all the ordinances relating thereto, the City Council shall order the City Clerk to issue a permit to the applicant authorizing such sale by auction in or at the place or premises designated in the permit and for the period therein stated.

5. The fee for the license or permit is twenty-five dollars ($25.00) a day for each day that the auction is to be held and is payable in advance to the City Clerk. No license or permit shall be issued until the fee as herein provided has been paid.

6. No person shall sell or cause to be sold at an auction sale in the City new or used motor vehicles between the hours of 6:00 p.m. and 8:00 a.m.

7. The applicant for a permit to offer for sale or sell by auction under this section shall submit with the application a bond in the sum of five hundred dollars ($500.00) with sureties to be approved by the City Council, conditioned upon the faithful observance of all ordinances of the City relating to auctions and auctioneers.

124.11 DEALERSHIP PARKING SPACE SURFACES.

1. It is unlawful for any person to operate or be concerned with the operation of any motor vehicle dealership parking space unless the surface of such motor vehicle dealership parking space has first been paved in conformance with the requirements of this Code of Ordinances. If an applicant is able to demonstrate that he or she is waiting for a Department of Natural Resources permit concerning an underground storage tank, a temporary surface of seal-coated gravel will satisfy the requirements of this section for a period of 12 months immediately succeeding the application date. Upon proper demonstration that DNR approval is still pending, the 12-month period may be renewed for a like time period.

2. It is unlawful for any person operating or concerned with the operation of an outdoor motor vehicle parking space in the City to permit dust, dirt, or other debris to accumulate upon the surface of such parking space or to blow from such surface.

3. All motor vehicles must be stored on the licensee's paved parking surface. Under no circumstances shall a licensee store, park, or otherwise place or permit the parking or placing of motor vehicles upon the public sidewalks, streets, or within the public right-of-way.

4. No motor vehicles shall be stored within a 30-foot visibility triangle at the intersection of two streets (measured along the right-of-way lines of the two streets).

5. The provisions of this chapter expressly apply to motor vehicle dealerships. Any requirements not contained in this chapter, but contained in other sections of this Code of Ordinances, shall also govern the operation of a motor vehicle dealership.

124.12 ADDITIONAL RULES AND REGULATIONS. Any additional rules and/or regulations imposed by State laws are incorporated, by reference, in this chapter.

124.13 VIOLATION; PENALTY. Any person, officer, or manager of a corporation who violates the provisions of this chapter shall be deemed guilty of a simple misdemeanor in accordance with Section 1.14 or may be cited for a municipal infraction under Chapter 3 of this Code of Ordinances and a civil penalty imposed and alternative relief such as order of abatement or injunctive relief may be sought. Each day's violation of this chapter constitutes a separate offense.

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CHAPTER 125

HOTEL/MOTEL TAX

125.01 Tax Imposed
125.02 Definitions
125.03 Collection
125.04 Restrictions on Use of Revenues

125.01 TAX IMPOSED. There is imposed a seven percent (7%) hotel and motel tax upon the sales price from the renting of sleeping rooms, apartments or sleeping quarters in a hotel, motel, inn, public lodging house, rooming house, manufactured or mobile home which is tangible personal property, or tourist court or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals, except the sales price from the renting of sleeping rooms in dormitories and memorial unions at all universities and colleges located in the State.

(Code of Iowa, Sec. 423A.1)

125.02 DEFINITIONS. "Renting" and "rent," as used in this chapter, include any kind of direct or indirect charge for the use of sleeping rooms, apartments or sleeping quarters. However, the tax imposed in this chapter does not apply to the sales price from the renting of a sleeping room, apartment or sleeping quarters while rented by the same person for a period of more than thirty-one (31) consecutive days.

(Code of Iowa, Sec. 423A.2)

125.03 COLLECTION. The tax imposed in this chapter shall be remitted by the person or company liable for same to the State Director of Revenue in the manner required by State law.

(Code of Iowa, Sec. 423A.1)

125.04 RESTRICTIONS ON USE OF REVENUES. The revenue derived from the tax imposed by this chapter shall be accounted for as follows:

1. All revenue received by the City from the imposition of the hotel and motel tax shall be deposited in the General Fund of the City.

2. At least fifty percent (50%) of the revenue derived from the hotel and motel tax shall be spent for the acquisition of sites for, or constructing, improving, enlarging, equipping, repairing, operating or maintaining recreational, convention, cultural or entertainment facilities, including, but not limited to, memorial buildings, halls and monuments, civic centers, convention buildings, auditoriums, coliseums and parking areas or facilities located at those recreational, convention, cultural or entertainment facilities, or the payment of principal and interest on bonds or other evidence of indebtedness issued by the City for those recreational, convention, cultural or entertainment facilities, or for the promotion and encouragement of tourist and convention business in the City and surrounding areas.

3. The remaining revenues may be spent by the City for any lawful purpose for which revenues derived from ad valorem taxes may be expended.

(Code of Iowa, Sec. 423A.7)

(Ch. 125 – Ord. 288 – Dec. 09 Supp.)

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CHAPTER 135

STREET USE AND MAINTENANCE

135.01 Removal of Warning Devices
135.02 Obstructing or Defacing
135.03 Placing Debris On
135.04 Playing In
135.05 Traveling on Barricaded Street or Alley
135.06 Use for Business Purposes
135.07 Washing Vehicles
135.08 Burning Prohibited
135.09 Excavations
135.10 Maintenance of Parking or Terrace
135.11 Failure to Maintain Parking or Terrace
135.12 Dumping of Snow
135.13 Driveway Culverts

135.01 REMOVAL OF WARNING DEVICES. It is unlawful for a person to willfully remove, throw down, destroy or carry away from any street or alley any lamp, obstruction, guard or other article or things, or extinguish any lamp or other light, erected or placed thereupon for the purpose of guarding or enclosing unsafe or dangerous places in said street or alley without the consent of the person in control thereof.

(Code of Iowa, Sec. 716.1)

135.02 OBSTRUCTING OR DEFACING. It is unlawful for any person to obstruct, deface, or injure any street or alley in any manner.

(Code of Iowa, Sec. 716.1)

135.03 PLACING DEBRIS ON. It is unlawful for any person to throw or deposit on any street or alley any glass, glass bottle, nails, tacks, wire, cans, trash, garbage, rubbish, litter, offal, leaves, grass or any other debris likely to be washed into the storm sewer and clog the storm sewer, or any substance likely to injure any person, animal or vehicle.

(Code of Iowa, Sec. 321.369)

135.04 PLAYING IN. It is unlawful for any person to coast, sled or play games on streets or alleys, except in the areas blocked off by the City for such purposes.

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

135.05 TRAVELING ON BARRICADED STREET OR ALLEY. It is unlawful for any person to travel or operate any vehicle on any street or alley temporarily closed by barricades, lights, signs, or flares placed thereon by the authority or permission of any City official, police officer or member of the fire department.

135.06 USE FOR BUSINESS PURPOSES. It is unlawful to park, store or place, temporarily or permanently, any machinery or junk or any other goods, wares, and merchandise of any kind upon any street or alley for the purpose of storage, exhibition, sale or offering same for sale, without permission of the Council.

135.07 WASHING VEHICLES. It is unlawful for any person to use any public sidewalk, street or alley for the purpose of washing or cleaning any automobile, truck equipment, or any vehicle of any kind when such work is done for hire or as a business. This does not prevent any person from washing or cleaning his or her own vehicle or equipment when it is lawfully parked in the street or alley.

135.08 BURNING PROHIBITED. No person shall burn any trash, leaves, rubbish, or other combustible material in any curb and gutter or on any paved or surfaced street or alley.

135.09 EXCAVATIONS. No person shall dig, excavate, or in any manner disturb any street, parking or alley except in accordance with the following:

1. Permit Required. No excavation shall be commenced without first obtaining a permit therefor. A written application for such permit shall be filed with the City and shall contain the following:

   A. An exact description of the property, by lot and street number, in front of or along which it is desired to excavate;

   B. A statement of the purpose, for whom and by whom the excavation is to be made;

   C. The person responsible for the refilling of said excavation and restoration of the street or alley surface; and

   D. Date of commencement of the work and estimated completion date.

2. Public Convenience. Streets and alleys shall be opened in the manner which will cause the least inconvenience to the public and admit the uninterrupted passage of water along the gutter on the street.

3. Barricades, Fencing and Lighting. Adequate barricades, fencing and warning lights meeting standards specified by the City shall be so placed as to protect the public from hazard. Any costs incurred by the City in providing or maintaining adequate barricades, fencing or warning lights shall be paid to the City by the permit holder/property owner.

4. Bond Required. The applicant shall post with the City a penal bond in the minimum sum of ten thousand dollars ($10,000.00) issued by a surety company authorized to issue such bonds in the State. The bond shall guarantee the permittee's payment for any damage done to the City or to public property, and payment of all costs incurred by the City in the course of administration of this section.

5. Insurance Required. Each applicant shall also file a certificate of insurance indicating that the applicant is carrying public liability insurance in effect for the duration of the permit covering the applicant and all agents and employees for the following minimum amounts:

   A. Bodily Injury - $50,000.00 per person; $100,000.00 per accident.

   B. Property Damage - $50,000.00 per accident.

6. Excavation and Restoration. The excavation and restoration work shall be completed in accordance with the *City of De Soto Standard Specifications for Street and Utility Improvements.*

7. Inspection. All work shall be subject to inspection by the City. Backfill shall not be deemed completed, and no resurfacing of any improved street or alley surface shall begin, until such backfill is inspected and approved by the City. The permit holder/property owner shall provide the City with notice at least twenty-four (24) hours prior to the time when inspection of backfill is desired.

8. Completion by the City. Should any excavation in any street or alley be discontinued or left open and unfinished for a period of twenty-four (24) hours after

the approved completion date, or in the event the work is improperly done, the City has the right to finish or correct the excavation work and charge any expenses therefor to the permit holder/property owner.

9. Responsibility for Costs. All costs and expenses incident to the excavation and restoration shall be borne by the permit holder and/or property owner. The permit holder and owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such excavation.

10. Notification. At least forty-eight (48) hours prior to the commencement of the excavation, excluding Saturdays, Sundays and legal holidays, the person performing the excavation shall contact the Statewide Notification Center and provide the center with the information required under Section 480.4 of the Code of Iowa.

11. Permit Fee. A permit fee of fifty dollars ($50.00) shall be payable at the time of filing the application with the City. A separate permit shall be required for each excavation.

12. Permit Issued. Upon approval of the application, filing of bond and insurance certificate, and payment of any required fees, a permit shall be issued.

13. Permit Exemption. Utility companies are exempt from the permit application requirement of this section. They shall, however, comply with all other pertinent provisions and shall post with the City a yearly bond in the amount of ten thousand dollars ($10,000.00) to guarantee such compliance.

135.10 MAINTENANCE OF PARKING OR TERRACE. It shall be the responsibility of the abutting property owner to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right-of-way. Maintenance includes timely mowing, trimming trees and shrubs and picking up litter.

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

135.11 FAILURE TO MAINTAIN PARKING OR TERRACE. If the abutting property owner does not perform an action required under the above section within a reasonable time, the City may perform the required action and assess the cost against the abutting property for collection in the same manner as a property tax.

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

135.12 DUMPING OF SNOW. It is unlawful for any person to throw, push, or place or cause to be thrown, pushed or placed, any ice or snow from private property, sidewalks, or driveways onto the traveled way of a street or alley so as to obstruct gutters, or impede the passage of vehicles upon the street or alley or to create a hazardous condition therein; except where, in the cleaning of large commercial drives in the business district it is absolutely necessary to move the snow onto the street or alley temporarily, such accumulation shall be removed promptly by the property owner or agent. Arrangements for the prompt removal of such accumulations shall be made prior to moving the snow.

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

135.13 DRIVEWAY CULVERTS. The property owner shall, at the owner's expense, install any culvert deemed necessary under any driveway or any other access to the owner's property, and before installing a culvert, permission must first be obtained from the City. In the event repairs are needed at any time with respect to culverts, it shall be the responsibility of the property owner to make such repairs, and, in the event the owner fails to do so, the City

shall have the right to make the repairs. If the property owner fails to reimburse the City for the cost of said repairs, the cost shall be certified to the County Treasurer and specially assessed against the property as by law provided.

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CHAPTER 136

SIDEWALK REGULATIONS

136.01 Purpose
136.02 Definitions
136.03 Removal of Snow, Ice and Accumulations
136.04 Responsibility for Maintenance
136.05 City May Order Repairs
136.06 Sidewalk Construction Ordered
136.07 Permit Required
136.08 Sidewalk Standards
136.09 Barricades and Warning Lights
136.10 Failure to Repair or Barricade
136.11 Interference with Sidewalk Improvements
136.12 Encroaching Steps
136.13 Openings and Enclosures
136.14 Fires or Fuel on Sidewalks
136.15 Defacing
136.16 Debris on Sidewalks
136.17 Merchandise Display
136.18 Sales Stands

136.01 PURPOSE. The purpose of this chapter is to enhance safe passage by citizens on sidewalks, to place the responsibility for the maintenance, repair, replacement or reconstruction of sidewalks upon the abutting property owner and to minimize the liability of the City.

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

1. "Broom finish" means a sidewalk finish that is made by sweeping the sidewalk when it is hardening.

2. "Established grade" means that grade established by the City for the particular area in which a sidewalk is to be constructed.

3. "One-course construction" means that the full thickness of the concrete is placed at one time, using the same mixture throughout.

4. "Owner" means the person owning the fee title to property abutting any sidewalk and includes any contract purchaser for purposes of notification required herein. For all other purposes, "owner" includes the lessee, if any.

5. "Portland cement" means any type of cement except bituminous cement.

6. "Sidewalk" means all permanent public walks in business, residential or suburban areas.

7. "Sidewalk improvements" means the construction, reconstruction, repair, replacement or removal, of a public sidewalk and/or the excavating, filling or depositing of material in the public right-of-way in connection therewith.

8. "Wood float finish" means a sidewalk finish that is made by smoothing the surface of the sidewalk with a wooden trowel.

136.03 REMOVAL OF SNOW, ICE AND ACCUMULATIONS. It is the responsibility of the abutting property owners to remove snow, ice and accumulations promptly from sidewalks. If a property owner does not remove snow, ice or accumulations within twenty-four (24) hours after the snowfall or accumulation of ice, the City may do so and assess the costs against the property owner for collection in the same manner as a property tax.

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

136.04 RESPONSIBILITY FOR MAINTENANCE. It is the responsibility of the abutting property owners to maintain in a safe and hazard-free condition any sidewalk outside the lot and property lines and inside the curb lines or traveled portion of the public street.

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

136.05 CITY MAY ORDER REPAIRS. If the abutting property owner does not maintain sidewalks as required, the Council may serve notice on such owner, by certified mail, requiring the owner to repair, replace or reconstruct sidewalks within a reasonable time and if such action is not completed within the time stated in the notice, the Council may require the work to be done and assess the costs against the abutting property for collection in the same manner as a property tax.

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

136.06 SIDEWALK CONSTRUCTION ORDERED. The Council may order the construction of permanent sidewalks upon any street or court in the City and may specially assess the cost of such improvement to abutting property owners in accordance with the provisions of Chapter 384 of the Code of Iowa.

(Code of Iowa, Sec. 384.38)

136.07 PERMIT REQUIRED. No person shall remove, reconstruct or install a sidewalk unless such person has obtained a permit from the City and has agreed in writing that said removal, reconstruction or installation will comply with all ordinances and requirements of the City for such work.

136.08 SIDEWALK STANDARDS. Sidewalks repaired, replaced or constructed under the provisions of this chapter shall be of the following construction and meet the following standards:

1. Cement. Portland cement shall be the only cement used in the construction and repair of sidewalks.

2. Construction. Sidewalks shall be of one-course construction.

3. Sidewalk Base. Concrete may be placed directly on compact and well-drained soil. Where soil is not well drained, a three (3) inch sub-base of compact, clean, coarse gravel or sand shall be laid. The adequacy of the soil drainage is to be determined by the City.

4. Sidewalk Bed. The sidewalk bed shall be graded to the existing grade of the abutting street or as otherwise determined by the City.

5. Length, Width and Depth. Length, width and depth requirements are as follows:

   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.

   C. Driveway areas shall be not less than six (6) inches in thickness.

6. Location. Residential sidewalks shall be located with the inner edge (edge nearest the abutting private property) one foot from the property line, unless the Council establishes a different distance due to special circumstances.

7. Grade. Sidewalks shall be on level with the centerline of the established grade of the street or as otherwise determined by the City.

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 (½) inch above the curb for each foot between the curb and the sidewalk, or as otherwise directed by the City.

9. Slope. All sidewalks shall slope one-quarter (¼) inch per foot toward the curb.

10. Finish. All sidewalks shall be finished with a "broom" or "wood float" finish.

11. Ramps for Persons with Disabilities. 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 (30) inches wide, shall be sloped at not greater than one inch of rise per twelve (12) inches lineal distance, except that a slope no greater than one inch of rise per eight (8) inches lineal distance may be used where necessary, shall have a nonskid surface, and shall otherwise be so constructed as to allow reasonable access to the crosswalk for persons with disabilities using the sidewalk.

(Code of Iowa, Sec. 216C.9)

136.09 BARRICADES AND WARNING LIGHTS. Whenever any material of any kind is deposited on any street, avenue, highway, passageway or alley when sidewalk improvements are being made or when any sidewalk is in a dangerous condition, it shall be the duty of all persons having an interest therein, either as the contractor or the owner, agent, or lessee of the property in front of or along which such material may be deposited, or such dangerous condition exists, to put in conspicuous places at each end of such sidewalk and at each end of any pile of material deposited in the street, a sufficient number of approved warning lights or flares, and to keep them lighted during the entire night and to erect sufficient barricades both at night and in the daytime to secure the same. The party or parties using the street for any of the purposes specified in this chapter shall be liable for all injuries or damage to persons or property arising from any wrongful act or negligence of the party or parties, or their agents or employees or for any misuse of the privileges conferred by this chapter or of any failure to comply with provisions hereof.

136.10 FAILURE TO REPAIR OR BARRICADE. It is the duty of the owner of the property abutting the sidewalk, or the owner's contractor or agent, to notify the City immediately in the event of failure or inability to make necessary sidewalk improvements or to install or erect necessary barricades as required by this chapter.

136.11 INTERFERENCE WITH SIDEWALK IMPROVEMENTS. No person shall knowingly or willfully drive any vehicle upon any portion of any sidewalk or approach thereto while in the process of being improved or upon any portion of any completed sidewalk or approach thereto, or shall remove or destroy any part or all of any sidewalk or approach thereto, or shall remove, destroy, mar or deface any sidewalk at any time or destroy, mar, remove or deface any notice provided by this chapter.

136.12 ENCROACHING STEPS. It is unlawful for a person to erect or maintain any stairs or steps to any building upon any part of any sidewalk without permission by resolution of the Council.

136.13 OPENINGS AND ENCLOSURES. It is unlawful for a person to:

1. Stairs and Railings. Construct or build a stairway or passageway to any cellar or basement by occupying any part of the sidewalk, or to enclose any portion of a sidewalk with a railing without permission by resolution of the Council.

2. Openings. Keep open any cellar door, grating or cover to any vault on any sidewalk except while in actual use with adequate guards to protect the public.

3. Protect Openings. Neglect to properly protect or barricade all openings on or within six (6) feet of any sidewalk.

136.14 FIRES OR FUELS ON SIDEWALKS. It is unlawful for a person to make a fire of any kind on any sidewalk or to place or allow any fuel to remain upon any sidewalk.

136.15 DEFACING. It is unlawful for a person to scatter or place any paste, paint or writing on any sidewalk.

(Code of Iowa, Sec. 716.1)

136.16 DEBRIS ON SIDEWALKS. It is unlawful for a person to throw or deposit on any sidewalk any glass, nails, glass bottle, tacks, wire, cans, trash, garbage, rubbish, litter, offal, or any other debris, or any substance likely to injure any person, animal, or vehicle.

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

136.17 MERCHANDISE DISPLAY. It is unlawful for a person to place upon or above any sidewalk, any goods or merchandise for sale or for display in such a manner as to interfere with the free and uninterrupted passage of pedestrians on the sidewalk; in no case shall more than three (3) feet of the sidewalk next to the building be occupied for such purposes.

136.18 SALES STANDS. It is unlawful for a person to erect or keep any vending machine or stand for the sale of fruit, vegetables or other substances or commodities on any sidewalk without first obtaining a written permit from the Council.

CHAPTER 137

SIDEWALK CONSTRUCTION INCENTIVE PROGRAM

137.01 Purpose
137.02 Procedure
137.03 Conflict with Other Sections
137.04 Application Form

137.01 PURPOSE. The purpose of this chapter is to encourage the private construction and replacement of sidewalks within the existing residential section of the City. This program is not intended to apply to new subdivisions or other new construction projects. The City may make an annual appropriation of money available each year for this program.

137.02 PROCEDURE.

1. Application will be made to the City Clerk on the form prescribed by the City. Application for a given calendar year must be made by March 1 of that year for consideration. Applications not selected by the City may be resubmitted for consideration in subsequent years.

2. The De Soto Planning and Zoning Commission will review all applications submitted by the deadline. They will evaluate applications based on the following criteria:

   A. Priority. Priority based on the DOT sidewalk study.

   B. Continuity. Being connected to existing or other new sidewalk to be constructed at the same time.

   C. Proximity. Proximity of other sidewalks (e.g., a sidewalk being constructed where no sidewalk is on the opposite side of street will receive higher consideration).

3. The Commission will make a recommendation to the City Council by May 8 of the calendar year.

4. The Council will consider annual sidewalk grant projects at the regular May Council meeting.

5. Approved applicants will be notified by May 25. Project must be completed by December 1.

6. Applicant shall make application for permit and complete sidewalk pursuant to the City's requirements.

7. Upon completion, sidewalk shall be inspected by Public Works Director to insure compliance with all City codes and requirements.

8. Upon approval by Public Works Director, City will provide grant up to 50% of the costs per linear foot as established by the Public Works Director of new sidewalk as measured by the Public Works Director. Payment to be made to the owner of record of the property where the sidewalk was installed. Payment will be made within 45 days after final approval and measurement by Public Works Director.

137.03 CONFLICT WITH OTHER SECTIONS. No part of this chapter shall be construed to be in conflict with any other section of this Code of Ordinances. If any conflict is determined, Chapter 136 will prevail.

137.04 APPLICATION FORM. The application form for a sidewalk grant is contained in the Appendix to this Code of Ordinances.

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CHAPTER 138

VACATION AND DISPOSAL OF STREETS

138.01 Power to Vacate
138.02 Planning and Zoning Commission
138.03 Notice of Vacation Hearing
138.04 Findings Required
138.05 Disposal of Vacated Streets or Alleys
138.06 Disposal by Gift Limited

138.01 POWER TO VACATE. When, in the judgment of the Council, it would be in the best interest of the City to vacate a street, alley, portion thereof or any public grounds, the Council may do so by ordinance in accordance with the provisions of this chapter.

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

138.02 PLANNING AND ZONING COMMISSION. Any proposal to vacate a street, alley, portion thereof or any public grounds shall be referred by the Council to the Planning and Zoning Commission for its study and recommendation prior to further consideration by the Council. The Commission shall submit a written report including recommendations to the Council within thirty (30) days after the date the proposed vacation is referred to the Commission.

(Code of Iowa, Sec. 392.1)

138.03 NOTICE OF VACATION HEARING. The Council shall cause to be published a notice of public hearing of the time at which the proposal to vacate shall be considered.

138.04 FINDINGS REQUIRED. No street, alley, portion thereof or any public grounds shall be vacated unless the Council finds that:

1. Public Use. The street, alley, portion thereof or any public ground proposed to be vacated is not needed for the use of the public, and therefore, its maintenance at public expense is no longer justified.

2. Abutting Property. The proposed vacation will not deny owners of property abutting on the street or alley reasonable access to their property.

138.05 DISPOSAL OF VACATED STREETS OR ALLEYS. When in the judgment of the Council it would be in the best interest of the City to dispose of a vacated street or alley, portion thereof or public ground, the Council may do so in accordance with the provisions of Section 364.7, Code of Iowa.

(Code of Iowa, Sec. 364.7)

138.06 DISPOSAL BY GIFT LIMITED. The City may not dispose of real property by gift except to a governmental body for a public purpose or to a fair.

(Code of Iowa, Sec. 174.15[2] & 364.7[3])

EDITOR'S NOTE

The following ordinances, not codified herein and specifically saved from repeal, have been adopted vacating certain streets, alleys and/or public grounds and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
33			
36			
38			
55			
58			
62			
63			
77			
78			
79			
101			
144			

CHAPTER 139

STREET GRADES

139.01 Established Grades
139.02 Record Maintained

139.01 ESTABLISHED GRADES. The grades of all streets, alleys and sidewalks, which have been heretofore established by ordinance are hereby confirmed, ratified and established as official grades.

139.02 RECORD MAINTAINED. The Clerk shall maintain a record of all established grades and furnish information concerning such grades upon request.

EDITOR'S NOTE

The following ordinances not codified herein, and specifically saved from repeal, have been adopted establishing street and/or sidewalk grades and remain in full force and effect.

ORDINANCE NO.	ADOPTED	ORDINANCE NO.	ADOPTED
226	July 28, 1998		

° ° ° ° ° ° ° ° ° °

CHAPTER 140

NAMING OF STREETS

140.01 Naming New Streets
140.02 Changing Name of Street
140.03 Recording Street Names
140.04 Official Street Name Map
140.05 Revision of Street Name Map

140.01 NAMING NEW STREETS. New streets shall be assigned names in accordance with the following:

1. Extension of Existing Street. Streets added to the City that are natural extensions of existing streets shall be assigned the name of the existing street.

2. Resolution. All street names, except streets named as a part of a subdivision or platting procedure, shall be named by resolution.

3. Planning and Zoning Commission. Proposed street names shall be referred to the Planning and Zoning Commission for review and recommendation.

140.02 CHANGING NAME OF STREET. The Council may, by resolution, change the name of a street.

140.03 RECORDING STREET NAMES. Following official action naming or changing the name of a street, the Clerk shall file a copy thereof with the County Recorder, County Auditor and County Assessor.

(Code of Iowa, Sec. 354.26)

140.04 OFFICIAL STREET NAME MAP. Streets within the City are named as shown on the Official Street Name Map which is hereby adopted by reference and declared to be a part of this chapter. The Official Street Name Map shall be identified by the signature of the Mayor, and bearing the seal of the City under the following words: "This is to certify that this is the Official Street Name Map referred to in Section 140.04 of the Code of Ordinances of De Soto, Iowa."

140.05 REVISION OF STREET NAME MAP. If in accordance with the provisions of this chapter, changes are made in street names, such changes shall be entered on the Official Street Name Map promptly after the change has been approved by the Council with an entry on the Official Street Name Map as follows: "On (date), by official action of the City Council, the following changes were made in the Official Street Name Map: (brief description)," which entry shall be signed by the Mayor and attested by the Clerk.

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CHAPTER 141

CONTROLLED ACCESS FACILITIES

141.01 Exercise of Police Power
141.02 Definition
141.03 Right of Access Limited
141.04 Access Controls Imposed
141.05 Unlawful Use of Controlled Access Facility

141.01 EXERCISE OF POLICE POWER. This chapter shall be deemed an exercise of the police power of the City under Chapter 306A, Code of Iowa, for the preservation of the public peace, health, safety and for the promotion of the general welfare.

(Code of Iowa, Sec. 306A.1)

141.02 DEFINITION. The term "controlled access facility" means 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 only a controlled right or 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, Sec. 306A.2)

141.03 RIGHT OF ACCESS LIMITED. No person has any right of ingress or egress to or from abutting lands onto or across any controlled access facility, except at such designated points at which access is permitted.

(Code of Iowa, Sec. 306A.4)

141.04 ACCESS CONTROLS IMPOSED. There are hereby fixed and established controlled access facilities on the Primary Road System extension improvement, Primary Road 169 and Interstate Highway 80, within the City, described as follows:

> *All State of Iowa property occupied by Primary Road U.S. 169 and Interstate 80 in the SW¼ of the NW¼ and in the NW¼ of the SW¼ of Section Nineteen, Township Seventy-eight North, Range Twenty-seven West of the 5th P.M., Dallas County, Iowa, and the NE¼ of the SE¼, and the SE¼ of the NE¼ of Section 24, Township Seventy-eight North, Range Twenty-eight West of the 5th P.M., Dallas County, Iowa*

regulating access to and from abutting properties along said highway all in accordance with the plans for such improvement identified as De Soto Annexation, May 24, 1971, on file in the office of the Clerk.

141.05 UNLAWFUL USE OF CONTROLLED ACCESS FACILITY. It is unlawful for any person to:

(Code of Iowa, Sec. 306A.3 and 321.366)

1. Cross Dividing Line. Drive a vehicle over, upon or across any curb, central dividing section, or other separation or dividing line on such controlled access facilities.

2. Turns. Make a left turn or a semicircular or U-turn except through an opening provided for that purpose in the dividing curb section, separation or line.

3. Use of Lanes. Drive any vehicle except in the proper lane provided for that purpose and in the proper direction and to the right of the central dividing curb, separation, section or line.

4. Enter Facility. Drive any vehicle into the controlled access facility from a local service road except through an opening provided for that purpose in the dividing curb or dividing section or dividing line which separates such service road from the controlled access facility property.

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CHAPTER 142

MAILBOXES

142.01 Purpose
142.02 Definitions
142.03 Cluster-Style Mailbox Required in New Developments
142.04 Cluster-Style Mailbox Requirements
142.05 Visibility; Obstructions
142.06 Driveway or Street Access Limitations
142.07 Curbside Mailbox Requirements
142.08 Custom-Built Individual Mailbox Requirements
142.09 Custom-Built Cluster Mailbox Requirements
142.10 Responsibilities of Property Owner
142.11 Snow Removal

142.01 PURPOSE. The City's right-of-way is held by the City primarily for the purpose of pedestrian and vehicular passage and for the City's provision of essential public safety services, including police, fire, and emergency medical response services, and public health services, including sanitary sewer, water, and storm drainage. Further, the purpose is to eliminate parking problems on streets and improve the ability of the City to remove snow from streets. This chapter shall provide standards for mailboxes in order to maintain the safety and the visual character of the City's right-of-ways.

142.02 DEFINTIONS. For use in this chapter, the following terms are defined

1. "Breakaway support" means a supporting post which shall be no larger than a 4″ x 4″ wood post or a metal post with a strength no greater than a 2-inch diameter Schedule 40 steel pipe and which is buried no more than 24 inches deep. Such a support post shall not be set in concrete unless specifically designed as a breakaway support system as defined in *A Guide for Erecting Mailboxes on Highways* published by the American Association of State Highway and Transportation Officials, current addition (AASHTO).

2. "Clear zone" means an unobstructed flat area adjacent to the traveled portion of a roadway that is used for the recovery of errant vehicles, as defined by AASHTO.

3. "Cluster-style mailbox" means a style whereby mailboxes, meeting the specifications of the United States Postal Service (USPS) with the inscription plainly legible "U.S. MAIL" and "APPROVED BY THE POSTMASTER GENERAL," are assembled and grouped together on a single area of land so that they are regarded as one unit. Cluster-style mailboxes must be manufactured cluster-style mailboxes approved by both the City and the USPS.

4. "Curbside mailbox" means a mailbox consisting of a lightweight sheet metal or plastic box meeting the specifications of the USPS with the inscriptions plainly legible "U.S. MAIL" and "APPROVED BY THE POSTMASTER GENERAL," which is erected at the edge of a roadway or curbside of a street and is mounted on a breakaway support post, and is intended or used for the collection of mail and is to be served by a mail carrier from a vehicle.

5. "Custom-built individual mailbox" means a mailbox erected at the edge of a roadway or curbside of a street constructed using materials that do not meet the definition of a curbside mailbox and breakaway support.

6. "Custom-built cluster mailbox" means a multiple number (two or more) of mailboxes erected at the edge of a roadway or curbside of a street being constructed of

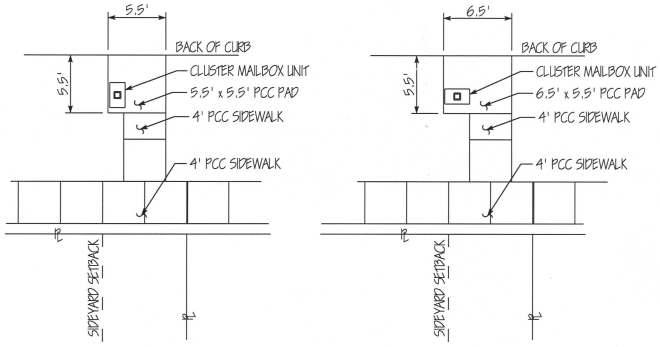
materials that do not meet the definition of a cluster-style mailbox and has no breakaway support.

142.03 CLUSTER-STYLE MAILBOX REQUIRED IN NEW DEVELOPMENTS.

1. Residential Developments. All new residential developments platted or in the site plan stage after the enactment of the regulations contained in this chapter which are situated on any cul-de-sac, street, avenue, or other roadway that is maintained or approved by the City and receive curbside delivery of mail shall have cluster-style mailboxes. Any housing development constructed and already receiving mail service before the regulations in this chapter are enacted is not required to have cluster-style mailboxes.

2. Commercial Developments. All new commercial developments platted or in the site plan stage after the enactment of the regulations contained in this chapter which wish to receive delivery of mail shall make provisions for the delivery of their mail within the development and off the public streets or right-of-ways where possible. Where there is more than one commercial establishment, cluster-style mailboxes will be required. Approval is required by the U.S. Post Office as well as the Planning and Zoning Commission and City Council.

142.04 CLUSTER-STYLE MAILBOX REQUIREMENTS. Cluster-style mailboxes serving housing developments situated on any public street or roadway shall be located between the sidewalk and curb, outside of the three-foot clear zone. Cluster-style mailboxes shall have a four-foot concrete access from the public street and the public sidewalk. The location of the cluster-style mailboxes shall not exceed 600 feet from the property line of those residents served by that cluster-style mailbox. Cluster-style boxes shall typically be located on property lines on the same side as the "no parking" areas. The location of the cluster-style mailbox shall be noted and become part of the requirements of Chapter 166, Subdivision Regulations, of this Code of Ordinances and shall follow the requirements as set out in that chapter. Further, prior to submission of the preliminary plat, approval of the USPS must be obtained and attached with the plat. In the case where the final plat is approved with a performance bond, that bond shall cover the mailboxes and the installation shall occur prior to any occupancy permit being issued for a home in the plat. Mailboxes shall be installed prior to any occupancy permit being issued for any other building requiring cluster-style mailboxes. The cost of installation, including but not limited to box units and concrete pad, shall be borne by the developer, and subsequent maintenance shall be carried out by the USPS. The Portland Cement Concrete pad and associated sidewalk shall conform to the detail below unless otherwise specified on the Preliminary Plat.



CLUSTER MAILBOX PADS

MAILBOXES SHALL FACE SOUTH OR EAST AS SHOWN ON PLAT

142.05 VISIBILITY; OBSTRUCTION. All cluster-style mailboxes must be erected:

1. Away from the intersection of any street and, in no case closer than 100 feet measured from the center of the intersection in order to prevent obstruction of free and clear vision; and

2. Away from any location where, by reason of its position, shape, or color, it may interfere with, obstruct the view of traffic, or be confused with any authorized traffic sign, signal, or device.

142.06 DRIVEWAY OR STREET ACCESS LIMITATIONS. No driveway or street access shall be constructed within five feet of the cluster-style mailboxes.

142.07 CURBSIDE MAILBOX REQUIREMENTS. While curbside mailboxes may be installed in developments constructed and already receiving mail service before the adoption of this chapter, the mailbox owner must comply with the following installation requirements:

1. The bottom of the mailbox shall be 41 inches to 45 inches from the road surface. On streets without curbs, the bottom of the mailbox shall be 48 inches from the edge of pavement, as defined by USPS installation requirements.

2. Lateral placement of the face of the mailbox shall be 6 inches minimum from the back of the curb, as defined by USPS installation requirements.

3. The mailbox support post shall be of a breakaway support design, as defined by ASHTO.

4. The post-to-box attachment shall be of sufficient strength to prevent the box from separating from the post if a vehicle strikes the post.

5. Property owner shall be responsible for the maintenance of the curbside mailbox.

142.08 CUSTOM-BUILT INDIVIDUAL MAILBOX REQUIREMENTS. A custom-built individual mailbox may not be installed in developments constructed and already receiving mail service before the adoption of this chapter. If a custom-built individual mailbox existed at the time of the enactment of the ordinance codified in this chapter, the custom-built mailbox will be grandfathered and allowed to stay. However, should the mailbox sustain 50% damage, the custom-built mailbox may not be replaced. Property owners shall be responsible for the maintenance of the custom-built mailbox. If the mailbox is damaged by the City beyond use, a standard curbside mailbox and breakaway post as defined in this chapter will be provided or the property owner may be reimbursed up to a maximum replacement amount set by the Council.

142.09 CUSTOM-BUILT CLUSTER MAILBOX REQUIREMENTS. A custom-built cluster mailbox may not be installed unless specifically approved by City Council on a Site Plan in accordance with Chapter 156 of this Code of Ordinances. The Homeowner's Association owner shall be responsible for the maintenance of the custom-built mailbox. The City shall not be responsible for any damage to custom-built cluster mailboxes.

142.10 RESPONSIBILITIES OF PROPERTY OWNER. Any type of mailbox located in the City right-of-way is subject to damage or destruction, at any time, as a result of entrance upon the City right-of-way by the City or a person with a utility easement to construct, repair, or maintain the utilities located in the City right-of-way or as a result of the City's engaging in activities to maintain the public street or right-of-way, such as snow removal, pavement repair,

or street cleaning. If a curbside or cluster-style mailbox located in the City right-of-way is damaged during such activities, the City or the utility that damaged the mailbox shall replace said mailbox with a mailbox of the same design, if it has been approved for installation by the USPS with the proper markings inscribed "U.S. MAIL" and "APPROVED BY THE POSTMASTER GENERAL" and if it is still available for purchase and complies with this chapter. Property owner may choose to be reimbursed in full or have the City reinstall a new mailbox meeting stated requirements. If the property owner chooses to purchase an approved mailbox and be reimbursed, the City will install the mailbox at the property owner's request.

142.11 SNOW REMOVAL. It is the responsibility of the adjoining property to clear the snow and accumulations from the sidewalk and pad around the cluster-style mailboxes within 24 hours after the snow has ceased to fall.

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CHAPTER 145

MANUFACTURED AND MOBILE HOMES

145.01 Definitions
145.02 Conversion to Real Property
145.03 Foundation Requirements

145.01 DEFINITIONS. For use in this chapter the following terms are defined:
(Code of Iowa, Sec. 435.1)

1. "Manufactured home" means a factory-built structure, built under the authority of 42 U.S.C. Sec. 5403, which was constructed on or after June 15, 1976, and is required by Federal law to display a seal from the United States Department of Housing and Urban Development.

2. "Manufactured home community" means any site, lot, field or tract of land under common ownership upon which ten or more occupied manufactured homes are harbored, either free of charge or for revenue purposes, and includes any building, structure or enclosure used or intended for use as part of the equipment of the manufactured home community.

3. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets and highways and so designed, constructed or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but also includes any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home means any such vehicle built before June 15, 1976, which was not built to a mandatory building code and which contains no State or Federal seals.

4. "Mobile home park" means any site, lot, field or tract of land upon which three (3) or more mobile homes or manufactured homes, or a combination of any of these homes, are placed on developed spaces and operated as a for-profit enterprise with water, sewer or septic, and electrical services available.

The term "manufactured home community" or "mobile home park" is not to be construed to include manufactured or mobile homes, buildings, tents or other structures temporarily maintained by any individual, educational institution or company on their own premises and used exclusively to house their own labor or students. The manufactured home community or mobile home park shall meet the requirements of any zoning regulations that are in effect.

145.02 CONVERSION TO REAL PROPERTY. A mobile home or manufactured home which is located outside a manufactured home community or mobile home park shall be converted to real estate by being placed on a permanent foundation and shall be assessed for real estate taxes except in the following cases:
(Code of Iowa, Sec. 435.26 & Sec. 435.35)

1. Retailer's Stock. Mobile homes or manufactured homes on private property as part of a retailer's or a manufacturer's stock not used as a place for human habitation.

2. Existing Homes. A taxable mobile home or manufactured home which is located outside of a manufactured home community or mobile home park as of January 1, 1995, shall be assessed and taxed as real estate, but is exempt from the permanent foundation requirement of this chapter until the home is relocated.

145.03 FOUNDATION REQUIREMENTS. A mobile home or manufactured home located outside of a manufactured home community or mobile home park shall be placed on a permanent frost-free foundation system which meets the support and anchorage requirements as recommended by the manufacturer or required by the State Building Code. The foundation system must be visually compatible with permanent foundation systems of surrounding residential structures. Any such home shall be installed in accordance with the requirements of the State Building Code.

(Code of Iowa, Sec. 103A.10 & 414.28)

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CHAPTER 150

BUILDING NUMBERING

150.01 Definitions
150.02 Owner Requirements
150.03 Building Numbering Map

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

1. "Owner" means the owner of the principal building.

2. "Principal building" means the main building on any lot or subdivision thereof.

150.02 OWNER REQUIREMENTS. Every owner shall comply with the following numbering requirements:

1. Obtain Building Number. The owner shall obtain the assigned number to the principal building from the Clerk.

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

2. Display Building Number. The owner shall place or cause to be installed and maintained on the principal building the assigned number in a conspicuous place to the street in figures not less than two and one-half (2½) inches in height and of a contrasting color with their background.

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

3. Failure to Comply. If an owner refuses to number a building as herein provided, or fails to do so for a period of thirty (30) days after being notified in writing by the City to do so, the City may proceed to place the assigned number on the principal building and assess the costs against the property for collection in the same manner as a property tax.

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

150.03 BUILDING NUMBERING MAP. The Clerk shall be responsible for preparing and maintaining a building numbering map.

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CHAPTER 151

TREES

151.01 Definition
151.02 Planting Restrictions
151.03 Duty to Trim Trees
151.04 Trimming Trees to be Supervised
151.05 Disease Control
151.06 Inspection and Removal

151.01 DEFINITION. For use in this chapter, "parking" means that part of the street, avenue or highway in the City not covered by sidewalk and lying between the lot line and the curb line; or, on unpaved streets, that part of the street, avenue or highway lying between the lot line and that portion of the street usually traveled by vehicular traffic.

151.02 PLANTING RESTRICTIONS. No person shall plant a tree in any parking or street without the prior express consent of the Council. A person requesting permission to plant a tree in the public right-of-way shall first make written application to the Clerk stating the type of tree to be planted and its proposed location. The Council shall review the application at the next regularly scheduled Council meeting and shall take into consideration the proposed location of the tree, the type of tree involved and the potential effect on the surrounding public improvements before resolving to allow or deny the request.

151.03 DUTY TO TRIM TREES. The owner or agent of the abutting property shall keep the trees on, or overhanging the street, trimmed so that all branches will be at least fifteen (15) feet above the surface of the street and eight (8) feet above the sidewalks. If the abutting property owner fails to trim the trees, the City may serve notice on the abutting property owner requiring that such action be taken within five (5) days. If such action is not taken within that time, the City may perform the required action and assess the costs against the abutting property for collection in the same manner as a property tax.

(Code of Iowa, Sec. 364.12[2c, d & e])

151.04 TRIMMING TREES TO BE SUPERVISED. Except as allowed in Section 151.03, it is unlawful for any person to trim or cut any tree in a street or public place unless the work is done under the supervision of the City.

151.05 DISEASE CONTROL. Any dead, diseased or damaged tree or shrub which may harbor serious insect or disease pests or disease injurious to other trees is hereby declared to be a nuisance.

151.06 INSPECTION AND REMOVAL. The Council shall inspect or cause to be inspected any trees or shrubs in the City reported or suspected to be dead, diseased or damaged, and such trees and shrubs shall be subject to the following:

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

2. Private Property. If it is determined with reasonable certainty that any such condition exists on private property and that danger to other trees or to adjoining

property or passing motorists or pedestrians is imminent, the Council shall notify by certified mail the owner, occupant or person in charge of such property to correct such condition by treatment or removal within fourteen (14) days of said notification. If such owner, occupant, or person in charge of said property fails to comply within 14 days of receipt of notice, the Council may cause the condition to be corrected and the cost assessed against the property.

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

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CHAPTER 155

CONSTRUCTION CODES

155.01 2006 International Residential Code
155.02 2006 International Building Code
155.03 2006 International Existing Building Code
155.04 2006 International Mechanical Code
155.05 2009 International Plumbing Code
155.06 2008 National Electrical Code
155.07 2003 International Fuel Gas Code
155.08 2006 International Property Maintenance Code

155.01 2006 INTERNATIONAL RESIDENTIAL CODE. Pursuant to published notice and public hearing, as required by law, the *International Residential Code*, 2006 Edition, published by the International Code Council, is hereby adopted in full, including Appendix Chapters E and J, except for such portions as may hereinafter be deleted, modified, or amended. The following amendments, modifications, additions and deletions to the *International Residential Code*, 2006 Edition, are hereby made: ***(Ord. 307 – Dec. 14 Supp.)***

1. Add the following to Section R108.3:

   The Building Valuation will be derived from the most current Building Valuation Data Schedule published in the Building Safety Journal. Furthermore, the good column will be used, nothing will be added for air-conditioning and the Regional Modifier for Iowa will be used.

   The method for determining the value of the additional listed residential items will be as follows: The square foot of the listed structure, times the Dwelling - Type V - Wood Frame value, times the % multiplier assigned to each listed item.

   Open Decks - 8%
   Screened Porches - 15%
   In-ground Pools - 17%
   Above-ground pools - 8%
   3 Season Porches - 50%

   Crawl spaces or garage foundations are not included in basement charges.

2. In Section R110.1 under Exception, add the following:

   On all new construction, all necessary walks, drives, and approaches and all seeding and sodding are to be installed before a final Certificate of Occupancy is issued.

   For one- and two-family residential lots, two trees (one-inch caliper or greater) must also be planted.

3. Add the following to Section R108.2 Schedule of Permit Fees:

TOTAL VALUATION	FEE*
$1.00 to $500	$15.00
$501 to $2,000	$15 for the first $500 plus $2 for each additional $100 or fraction thereof, to and including $2,000
$2,001 to $25,000	$45 for the first $2,000 plus $8 for each additional $1,000 or fraction thereof, to and including $25,000
$25,001 to $50,000	$229.00 for the first $25,000 plus $7.00 for each additional $1,000 or fraction thereof, to and including $50,000
$50,001 to $100,000	$404 for the first $50,000 plus $5 for each additional $1,000 or fraction thereof, to and including $100,000
$100,001 to $1,000,000	$654 for the first $100,000 plus $3 for each additional $1,000 or portion thereof, to and including $1,000,000
$1,000,001 and up	$3,354 for the first $1,000,000 plus $2.50 for each additional $1,000 or fraction thereof.
Other Inspections and Fees	
Fences	$20.00
Signs (0-100 sq. ft.)	$15.00 base plus $0.25 per sq. ft.
Signs (101 sq. ft. and up)	$40.00 base plus $0.15 per sq. ft.
Storage Tanks	$25.00 each for installation or removal
Temporary Structures (including tents, canopies, membrane structures and similar structures)	$25.00
For use of outside consultants for plan checking and inspections, or both	Actual costs**

* Building permit fees may be waived for non-profit organizations or other charitable purposes when deemed acceptable by the city council.

** Actual costs include administrative and overhead costs.

The permit fee for building permits issued as the result of an order issued by the City of De Soto Building Department to abate violations of City Property Maintenance Ordinance may be waived if the permit applicant makes application showing good cause for waiver of such fee to the Code Compliance Officer, and the application for waiver of fees is approved by the City Council.

4. Amend Section R105.2(1) to read as follows:

One-story detached accessory structures, provided the floor area does not exceed 120 square feet.

5. Delete Section R105.2(2).

6. Amend Section R105.2(7) to read as follows:

Prefabricated swimming pools that are less than 18 inches deep.

7. Amend Section R108.5 to read as follows:

Fee Refunds. The Building Official may authorize refunding of any fee paid hereunder which was erroneously paid or collected.

The Building Official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.

The Building Official may authorize refunding of not more than 80 percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan reviewing is done.

The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of fee payment.

8. In Section R301.2.1.3 add the following:

For purposes of determining wind loads, the minimum basic wind speed shall be considered as 90 miles per hour; except when referenced documents are based on fastest mile wind velocities, Table R301.2.1.3 shall be used.

9. In Section R301.2.3 add the following:

For purposes of determining snow loads, the minimum ground snow load for design purposes shall be 30 pounds per square foot. Subsequent increases or decreases shall be allowed as otherwise provided in this code, except that the minimum allowable flat roof snow load may be reduced to not less than 80 percent of the ground snow load.

10. In Section R309.1 add "and shall have self-closing devices required on doors" so the second sentence of the paragraph reads as follows:

Other openings between the garage and residence shall be equipped with solid wood doors not less than 1 3/8 inches (35 mm) in thickness, solid or honeycomb core steel doors not less than 1 3/8 inches (35 mm) thick, or 20-minute fire-rated doors; and shall have self-closing devices required on doors.

11. Amend Section R310.1 by deleting from the first sentence the words "with habitable space" to read as follows:

Basements and every sleeping room shall have a least one openable emergency escape and rescue opening.

12. In Section R319.1 add the following:

8. Fences. Residential fences shall be chain link or approved wood not more than 6 feet higher than grade at the fence line. Wood fences shall be constructed so that both sides are finished, using alternating vertical boards no more than 5½ inches wide. Wood used in fences shall be treated wood, or approved wood of natural resistance to decay.

13. Replace Table R403.1 with the following:

TABLE R403.1
FOUNDATIONS FOR STUD BEARING WALLS

Number of Stories	Thickness of Foundation Walls *Unit Concrete Masonry*		Minimum Width of Footing (inches)	Thickness of Footing (inches)	Minimum Depth of Foundation Below Natural Surface of Ground and Finish Grade (inches)
1	8	8	16	8	42
2	8	8	16	8	42
3	10	10	18	12	42

14. In Section R404 add the following:

1. Scope. Notwithstanding other design requirements of Sections R404.1 - R404.1.5.1 of the *International Residential Code*, foundation retaining walls for one- and two-family dwelling occupancies of Type V construction may be constructed in accordance with this section, provided that use or building site conditions affecting such walls are within the limitations specified in this section.

2. Specifications. General specifications for such foundation retaining walls shall be as follows:

A. Eight-, Nine- and Ten-Foot High Walls.

1. The maximum height of the foundation wall for eight-foot walls shall be 7 feet, 8 inches, for nine-foot walls, 8 feet 8 inches, and for ten-foot walls, 9 feet, 8 inches, measured between foundation plate and a concrete floor slab having a minimum thickness of 4 inches. If such floor slab is not provided, a specially designed means of providing lateral support at the bottom of the wall shall be required.

2. The foundation plate shall be attached to the wall with one-half-inch steel bolts as prescribed in Section R403.1.3 of the *International Residential Code*.

3. Material used for backfilling shall be carefully placed granular soil of average or high permeability and shall be drained with an approved drainage system as prescribed in Section R405.1 of the *International Residential Code*.

4. Where soils containing a high percentage of clay, fine silt, or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.

3. Hollow Concrete Masonry Foundation Walls

A. Hollow concrete masonry units shall be set in Type M or Type S mortar.

B. All footings shall be of cast-in-place concrete having a minimum compressive strength of 3,000 pounds per square inch at 28 days, and shall be reinforced longitudinally with not less than two one-half-inch diameter steel bars placed continuously throughout. Footing reinforcement shall be symmetrically placed and so located as to ensure no less than three inches of concrete cover on all sides.

C. Foundation walls having a nominal thickness of not less than 12 inches may be unreinforced. Other foundation walls shall comply with the following requirements:

1. The nominal thickness of concrete masonry units shall not be less than 8 inches.

2. When a foundation wall has a horizontal clear span of more than 12 feet between supporting cross walls or corners, fully grouted vertical reinforcing shall be provided in the center of said wall in the amount of 0.075 square inches of ASTM A615 grade 40 steel per lineal foot of wall. All reinforcing steel shall be deformed bars spaced no more than 8-foot on center. All grout shall comply with Section 607 and 609 of the *International Residential Code*.

4. Cast-in-Place Plain Concrete Foundation Walls

A. Cast-in-place concrete foundation walls constructed under the provisions of this subsection shall be concrete having a minimum compressive strength of 28 days of not less than 3,000 pounds per square inch. All materials, proportioning, and placing shall conform to the requirements of Chapter 4 of the *International Residential Code*. In addition:

1. The minimum thickness of wall shall be 7½ inches for 8-foot high walls.

2. Walls shall be reinforced with no less than 3½-inch diameter deformed ASTM A615 grade 40 steel bars placed horizontally at the center of the wall, with one bar located near the top, one bar located near the bottom, and one bar located near mid-height of the wall for 8-foot high walls.

3. Nine- and ten-foot high walls shall have a minimum thickness of 8 inches. Walls shall be reinforced with ASTM A615 grade 40 deformed steel bars. Steel bars of ½-inch diameter shall be placed in the center of the wall horizontally at 2 feet on center and 20 inches on center vertically. Steel bars of 5/8-inch diameter shall be placed in the center of the wall horizontally at 2 feet on center and 30 inches on center vertically. (The use of 5/8-inch steel bars is optional.)"

15. In Section R403.1.43 add the following:

Frost Protection for Accessory Structures. Accessory structures 400 square feet or less can be erected on a slab at least 4 inches in thickness with no footings. Any structures over 400 square feet and not exceeding 720 square feet may be provided with a floating slab which shall include a thickened edge of a minimum of 12 inches in depth, of which 6 inches shall be below grade and 6 inches above grade. The thickened edge shall be at least 8 inches in width and tapered to at least 4 inches in depth throughout. Sod shall be removed to a depth of 6 inches and replaced with a minimum of 3 inches of sand backfill. Any structure over 720 square feet shall have frost footings."

16. Delete Chapter 11, Energy Efficiency, in its entirety.

155.02 2006 INTERNATIONAL BUILDING CODE. Pursuant to published notice and public hearing, as required by law, the *International Building Code*, 2006 Edition, published by the International Code Council, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended. The following amendments, modifications, additions and deletions to the *International Building Code*, 2006 Edition, are hereby made:

(Ord. 307 – Dec. 14 Supp.)

1. Delete Section 105.2(2).

2. Amend Section 105.2(9) to read as follows:

   Prefabricated swimming pools that are less than 18 inches deep.

3. Add the following to Section 108.2 Schedule of Permit Fees:

TOTAL VALUATION	FEE*
$1.00 to $500	$15.00
$501 to $2,000	$15 for the first $500 plus $2 for each additional $100 or fraction thereof, to and including $2,000
$2,001 to $25,000	$45 for the first $2,000 plus $8 for each additional $1,000 or fraction thereof, to and including $25,000
$25,001 to $50,000	$229.00 for the first $25,000 plus $7.00 for each additional $1,000 or fraction thereof, to and including $50,000
$50,001 to $100,000	$404 for the first $50,000 plus $5 for each additional $1,000 or fraction thereof, to and including $100,000
$100,001 to $1,000,000	$654 for the first $100,000 plus $3 for each additional $1,000 or portion thereof, to and including $1,000,000
$1,000,001 and up	$3,354 for the first $1,000,000 plus $2.50 for each additional $1,000 or fraction thereof.
Other Inspections and Fees	
Fences	$20.00
Signs (0-100 sq. ft.)	$15.00 base plus $0.25 per sq. ft.
Signs (101 sq. ft. and up)	$40.00 base plus $0.15 per sq. ft.
Storage Tanks	$25.00 each for installation or removal
Temporary Structures (including tents, canopies, membrane structures and similar structures)	$25.00
For use of outside consultants for plan checking and inspections, or both	Actual costs**

* Building permit fees may be waived for non-profit organizations or other charitable purposes when deemed acceptable by the city council.

** Actual costs include administrative and overhead costs.

The permit fee for building permits issued as the result of an order issued by the City of De Soto Building Department to abate violations of City Property Maintenance Ordinance may be waived if the permit applicant makes application showing good cause for waiver of such fee to the Code Compliance Officer, and the application for waiver of fees is approved by the City Council.

4. In Section 1608.2 add the following:

For purposes of determining snow loads, the minimum ground snow load for design purposes shall be 30 pounds per square foot. Subsequent increases or decreases shall be allowed as otherwise provided in this code, except that the minimum allowable flat roof snow load may be reduced to not less than 80 percent of the ground snow load.

5. In Section 1609.3 add the following:

For purposes of determining wind loads, the minimum basic wind speed shall be considered as 90 miles per hour; except when referenced documents are based on fastest mile wind velocities, Table 1609.3.1 shall be used.

6. Replace Table 1805.4.2 with the following:

TABLE 1805.4.2
FOUNDATIONS FOR STUD BEARING WALLS

Number of Stories	**Thickness of Foundation Walls** *Unit Concrete Masonry*		**Minimum Width of Footing (inches)**	**Thickness of Footing (inches)**	**Minimum Depth of Foundation Below Natural Surface of Ground and Finish Grade (inches)**
1	8	8	16	8	42
2	8	8	16	8	42
3	10	10	18	12	42

7. Add the following as Section 1806.2 Foundation Retaining Walls for Group R Occupancies:

1. Scope. Notwithstanding other design requirements of Chapters 18, 19 and 21 of the *International Building Code*, foundation retaining walls for Group R occupancies of Type V construction may be constructed in accordance with this section, provided that use or building site conditions affecting such walls are within the limitations specified in this section.

2. Specifications. General specifications for such foundation retaining walls shall be as follows:

A. Eight-, Nine- and Ten-foot High Walls

1. The maximum height of the foundation wall for 8-foot walls shall be 7 feet, 8 inches, for 9-foot walls, 8 feet, 8 inches, and for ten-foot walls, 9 feet, 8 inches, measured between foundation plate and a concrete floor slab having a minimum thickness of four inches. If such floor slab is not provided, a specially designed means of providing lateral support at the bottom of the wall shall be required.

2. The foundation plate shall be attached to the wall with one-half-inch steel bolts as prescribed in Section R403.1.3 of the *International Residential Code*.

3. Material used for backfilling shall be carefully placed granular soil of average or high permeability and

shall be drained with an approved drainage system as prescribed in Section R405.1 of the *International Residential Code*.

4. Where soils containing a high percentage of clay, fine silt, or similar materials of low permeability or expansive soils are encountered or where backfill materials are not drained or an unusually high surcharge is to be placed adjacent to the wall, a specially designed wall shall be required.

3. Hollow Concrete Masonry Foundation Walls

A. Hollow concrete masonry units shall be set in Type M or Type S mortar.

B. All footings shall be of cast-in-place concrete having a minimum compressive strength of 3,000 pounds per square inch at 28 days, and shall be reinforced longitudinally with not less than two one-half-inch diameter steel bars placed continuously throughout. Footing reinforcement shall be symmetrically placed and so located as to ensure no less than three inches of concrete cover on all sides.

C. Foundation walls having a nominal thickness of not less than 12 inches may be unreinforced. Other foundation walls shall comply with the following requirements:

1. The nominal thickness of concrete masonry units shall not be less than 8 inches.

2. When a foundation wall has a horizontal clear span of more than 12 feet between supporting cross walls or corners, fully grouted vertical reinforcing shall be provided in the center of said wall in the amount of 0.075 square inches of ASTM A615 grade 40 steel per lineal foot of wall. All reinforcing steel shall be deformed bars spaced no more than 8-foot on center. All grout shall comply with Section 607 and 609 of the *International Residential Code*.

4. Cast-in-Place Plain Concrete Foundation Walls

A. Cast-in-place concrete foundation walls constructed under the provisions of this subsection shall be concrete having a minimum compressive strength of 28 days of not less than 3,000 pounds per square inch. All materials, proportioning, and placing shall conform to the requirements of Chapter 4 of the *International Residential Code*. In addition:

1. The minimum thickness of wall shall be 7½ inches for 8-foot high walls.

2. Walls shall be reinforced with no less than three 3½-inch diameter deformed ASTM A615 grade 40 steel bars placed horizontally at the center of the wall, with one bar located near the top, one bar located near the bottom, and one bar located near mid-height of the wall for 8-foot high walls.

3. Nine- and ten-foot high walls shall have a minimum thickness of 8 inches. Walls shall be reinforced

with ASTM A615 grade 40 deformed steel bars. Steel bars of 1/2-inch diameter shall be placed in the center of the wall horizontally at 2 feet on center and 20 inches on center vertically. Steel bars of 5/8-inch diameter shall be placed in the center of the wall horizontally at 2 feet on center and 30 inches on center vertically. (The use of 5/8-inch steel bars is optional.)"

8. Delete Chapter 13 Energy Efficiency in its entirety.

155.03 2006 INTERNATIONAL EXISTING BUILDING CODE. Pursuant to published notice and public hearing, as required by law, the *International Existing Building Code*, 2006 Edition, published by the International Code Council, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended. The following amendments, modifications, additions and deletions to the *International Existing Building Code*, 2006 Edition, are hereby made: ***(Ord. 307 – Dec. 14 Supp.)***

1. Add the following to Section 108.2 Schedule of Permit Fees:

TOTAL VALUATION	FEE*
$1.00 to $500	$15.00
$501 to $2,000	$15 for the first $500 plus $2 for each additional $100 or fraction thereof, to and including $2,000
$2,001 to $25,000	$45 for the first $2,000 plus $8 for each additional $1,000 or fraction thereof, to and including $25,000
$25,001 to $50,000	$229.00 for the first $25,000 plus $7.00 for each additional $1,000 or fraction thereof, to and including $50,000
$50,001 to $100,000	$404 for the first $50,000 plus $5 for each additional $1,000 or fraction thereof, to and including $100,000
$100,001 to $1,000,000	$654 for the first $100,000 plus $3 for each additional $1,000 or portion thereof, to and including $1,000,000
$1,000,001 and up	$3,354 for the first $1,000,000 plus $2.50 for each additional $1,000 or fraction thereof.
Other Inspections and Fees	
Fences	$20.00
Signs (0-100 sq. ft.)	$15.00 base plus $0.25 per sq. ft.
Signs (101 sq. ft. and up)	$40.00 base plus $0.15 per sq. ft.
Storage Tanks	$25.00 each for installation or removal
Temporary Structures (including tents, canopies, membrane structures and similar structures)	$25.00
For use of outside consultants for plan checking and inspections, or both	Actual costs**

* Building permit fees may be waived for non-profit organizations or other charitable purposes when deemed acceptable by the city council.

** Actual costs include administrative and overhead costs.

The permit fee for building permits issued as the result of an order issued by the City of De Soto Building Department to abate violations of the City Property Maintenance Ordinance may be waived if the permit applicant makes application showing good cause for waiver of such fee to the Code Compliance Officer, and the application for waiver of fees is approved by the City Council.

155.04 2006 INTERNATIONAL MECHANICAL CODE. Pursuant to published notice and public hearing, as required by law, the *International Mechanical Code*, 2006 Edition, published by the International Code Council, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended. The following amendments, modifications, additions and deletions to the *International Mechanical Code*, 2006 Edition, are hereby made: ***(Ord. 307 – Dec. 14 Supp.)***

1. In Section 106.5.2 add the following:

   The mechanical permit for new construction shall be deemed included in the general building permit issued to the builder/general contractor.

155.05 2009 INTERNATIONAL PLUMBING CODE. Pursuant to published notice and public hearing, as required by law, the *International Plumbing Code*, 2009 Edition, published by the International Code Council, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended. The following amendments, modifications, additions and deletions to the *International Plumbing Code*, 2009 Edition, are hereby made: ***(Ord. 307 – Dec. 14 Supp.)***

1. In Section 106.5 delete the period at the end of the paragraph and add the following: "except new construction where the plumbing permit will be deemed as included in the general building permit issued to the builder/general contractor."

2. Drainage Piping to Sanitary Sewer. All draining piping at its connection to sanitary sewer drain in the City of DeSoto shall be protected from backflow of sewage by installation of an approved type backwater or swing check valve.

3. PEX cross-link polyethylene is approved for water distribution within the City of DeSoto with the following restrictions:

   A. PEX is not approved for water service lines, so from the main to the meter the material is required to be copper, when it is 2" diameter or smaller.

   B. The material is listed to be in conformance with ASTM F 876-97, ASTM F 877-96a, or ASTM F 1281-98 and properly identified to demonstrate the appropriate listing.

   C. All fittings shall be the metal insert or metal compression style manufactured for use with ASTM F 1961-99d or ASTM F 1974-99 and properly identified to demonstrate the appropriate listing.

   D. PEX tubing shall not be installed within the first eighteen (18) inches of piping connecting to a water heater and/or water meter.

155.06 2008 NATIONAL ELECTRICAL CODE. Pursuant to published notice and public hearing, as required by law, the *National Electrical Code*, 2008 Edition, published by the National Fire Protection Association, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended. The following amendments, modifications, additions and deletions to the *National Electrical Code*, 2008 Edition, are hereby made: ***(Ord. 307 – Dec. 14 Supp.)***

1. In Section 80.19(E) add the following:

   Exception: The electrical permit for new construction shall be deemed included in the general building permit issued to the builder/general contractor.

155.07 2003 INTERNATIONAL FUEL GAS CODE. Pursuant to published notice and public hearing, as required by law, the *International Fuel Gas Code*, 2003 Edition, published by the International Code Council, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended.

155.08 2006 INTERNATIONAL PROPERTY MAINTENANCE CODE. Pursuant to published notice and public hearing, as required by law, the *International Property Maintenance Code*, 2006 Edition, published by the International Code Council, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended. The following amendments, modifications, additions and deletions to the *International Property Maintenance Code*, 2006 Edition, are hereby made: ***(Ord. 307 – Dec. 14 Supp.)***

1. Amend Section 303.2 by replacing "24 inches" with "18 inches" to read as follows:

> Private swimming pools, hot tubs, and spas containing water more that 18 inches in depth shall be completely surrounded by a fence or barrier at least 72 inches in height above the finished ground level measured on the side of the barriers away from the pool.

2. Amend Section 304.14 to read as follows:

> During the period from April 15 to October 15, every door, window, and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

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CHAPTER 156

SITE PLAN

156.01 Purpose and Application
156.02 Design Standards
156.03 Required Information
156.04 Open Space, Landscaping, Parking and Architectural Requirements
156.05 Review Guidelines
156.06 Building Permits – Application
156.07 Procedure
156.08 Validity of Approval
156.09 Site Plan Amendment
156.10 Applicability to Existing Development
156.11 Violations and Penalties

156.01 PURPOSE AND APPLICATION. It is the intent and purpose of this chapter to establish a procedure which will enable the City to review certain proposed improvements to property within specified zoning districts of the City to insure compliance with all applicable zoning, subdivision and building regulations. Site plans shall only be required whenever any person proposes to place any structure for which a building permit is required under any other section of this Code, on any tract or parcel of and within any district of the De Soto Zoning Ordinance, and for any use, except one- and two-family dwellings.

156.02 DESIGN STANDARDS. The standards of design provided herein are necessary to insure the orderly and harmonious development of property in such manner as will safeguard property values and the public's health, safety and general welfare.

1. The design of the proposed improvements shall make adequate provisions for surface and subsurface drainage, for connections to water and sanitary sewer lines, each so designed as to neither overload existing public utility lines nor increase the danger of erosion, flooding, landslide or other endangerment of adjoining or surrounding property.

2. The proposed improvements shall be designed and located within the property in such manner as not to unduly diminish or impair the use and enjoyment of adjoining property, and to this end shall minimize the adverse effects on such adjoining property from automobile headlights, illumination of required perimeter yards, refuse containers and impairment of light and air. For the purpose of this section, the term "use and enjoyment of adjoining property" means the use and enjoyment presently being made of such adjoining property, unless such property is vacant. If vacant, the term "use and enjoyment of adjoining property" means those uses permitted under the zoning districts in which such adjoining property is located.

3. The proposed development shall have such entrances and exits upon adjacent streets and such internal traffic circulation pattern as will not unduly increase congestion on adjacent or surrounding public streets.

4. To such end as may be necessary and proper to accomplish the standards in subsections 1, 2, and 3 above, the proposed development shall provide fences, walls, screening, landscaping, erosion control or other improvements.

5. The proposed development shall conform to all applicable provisions of the Code of Iowa, as amended, and all applicable provisions of this Code of Ordinances, as amended.

6. Any public improvements completed with the development shall be constructed in accordance with the Urban Design Standards and Urban Standard Specifications for Public Improvements.

7. The design of the proposed improvements shall include storm water facilities to insure that downstream properties are not subjected to storm water flows above current undeveloped levels. Detention facilities shall be designed in accordance with the Urban Design Standards for Public Improvements.

156.03 REQUIRED INFORMATION. All site plans required under Section 156.01 of this chapter, unless waived by the City Council, shall include as a minimum the following information:

1. Date of preparation, north point and scale.

2. Legal description and address of the property to be developed.

3. Property lines with bearings and distances for each line.

4. Name and address of the record property owner, the applicant, and the person or firm preparing the site plan.

5. The existing and proposed zoning.

6. A development schedule with approximate starting dates, staging and completion date.

7. The existing and proposed topography with a maximum of two-foot contour intervals. Where existing ground is on a slope of less than two percent (2%), either one-foot contours or spot elevations where necessary but not more than fifty (50) feet apart in both directions, shall be indicated on site plan. Include finished floor elevations.

8. Existing and proposed utility lines and easements in accordance with the Land Subdivision Regulations.

9. Total number and type of dwelling units proposed; proposed uses for all buildings; total floor area of each building; estimated number of employees for each proposed use where applicable; and any other information which may be necessary to determine the number of off-street parking spaces and loading spaces required by the Zoning Ordinance.

10. Location, shape, and all exterior elevation views of all proposed buildings, for the purpose of understanding the structures, the location of windows, doors, overhangs, projection height, etc. and the grade relationship to floor elevation, and the number of stories of each existing building to be retained and of each proposed building.

11. All required yard setbacks.

12. Location, grade and dimensions of all existing and proposed paved surfaces and all abutting streets. All objects and structures extended from the original structure plan such as decks, porches, stoops and the like. ***(Ord. 332 – Oct. 18 Supp.)***

13. Complete traffic circulation and parking plan, showing the location and dimensions of all existing and proposed parking stalls, loading areas, entrance and exit drives, sidewalks, dividers, planters, and other similar permanent improvements.

14. Locations and dimensions of all storm water and detention facilities. Include flow path slopes, elevations and connections to existing storm sewers or channels. Submit a design report that includes the pipe sizing and detention calculations.

15. Location and type of existing or proposed signs. Scaled drawings of all signs with exterior dimensions and mounting height. Total area of each sign. Provide samples of letters and logos and the full message to appear on the sign. Description of materials and colors of background and letters. Also the means and magnitude of illumination. Exemption: On buildings being constructed for future lease to multiple tenants, the developer will propose, and have approved, a signage theme for the entire property, and the specific signage for individual tenants will be reviewed and approved before a Certificate of Occupancy is issued to that particular tenant.

16. Lighting plan: Provide a site lighting plan, indicating location, type, fixture height, power rating and shielding method of all existing and proposed lighting. Show elevation drawing or manufacturer's photo of each fixture, including its material and color.

17. Photographs of the existing and adjoining sites.

18. Locations of dumpsters and outside work areas.

19. Note all finish materials on drawing and furnish color samples.

20. Location of all outside mechanical equipment, roof equipment, electrical equipment, and solar panels, including the means of screening.

21. Location of existing trees six (6) inches or larger in diameter, landslide areas, springs and streams and other bodies of water, and any area subject to flooding by a one hundred (100) year storm on site and downstream off site. Location of all outside mechanical equipment, roof equipment, electrical equipment, and alternative energy sources such as solar panels or wind mills, including the means of screening. ***(Ord. 332 – Oct. 18 Supp.)***

22. Location, amount and type of any proposed landscaping. Location of plantings, fences, walls, or other screening as required by the Zoning regulations and the design standards set forth in Section 156.02 of this chapter. Location of Knox Box(s). ***(Ord. 332 – Oct. 18 Supp.)***

23. A vicinity map at a scale of 1" = 500' or larger, showing the general location of the property, and the adjoining land uses and zoning.

24. Soil tests and similar information, if deemed necessary by the City Engineer, to determine the feasibility of the proposed development in relation to the design standards set forth in Section 156.02 of this chapter.

25. Where possible ownership or boundary problems exist, as determined by the City Engineer, a property survey by a licensed land surveyor may be required.

26. Location of erosion control measures and details of the surface restoration.

27. Additional Information, drawings, or other materials necessary to describe a proposed project may be requested by the Planning and Zoning Commission or staff. The applicant may include additional information or materials such as sketches, videos, models or photos, if they help explain the proposal.

156.04 OPEN SPACE, LANDSCAPING, PARKING AND ARCHITECTURAL REQUIREMENTS. The requirements set forth in this section for open spaces, landscaping, parking and architectural standards shall apply to any development or redevelopment except one- and two-family dwellings.

1. Open Space Required. On each lot, except for one- and two-family dwellings, there shall be provided open space equal to at least the minimum required in the Zoning Ordinance for each district. Said open space shall be unencumbered with any structure, or off-street parking or roadways and drives, and shall be landscaped and maintained with grass, trees and shrubbery. When the entire lot is not developed, the open space requirement shall be based in proportion to the area of the improved portion of the lot. Each principal structure of an apartment or office complex on same site shall be separated from any other principal structure in the complex by an open space of not less than sixteen (16) feet.

2. Landscaping Required. Any development shall provide the following minimum number and size of landscape plantings based on the minimum required open space for the development. The following is the minimum requirement of trees and shrubs, by number and size, and type of ground cover. Street trees planted in public street right-of-way subject to approval by the City shall not be counted toward fulfillment of the minimum site requirements set forth below. Plant species to be used for landscaping shall be acceptable to the City that are not considered a nuisance or undesirable species, such as trees with thorns, cottonwood or cotton-bearing poplars, elm trees prone to Dutch Elm Disease, box elder and silver maple. Existing trees and shrubs to be retained on site may be counted toward fulfillment of the landscaping requirements. Specific types of trees may be requested by the City, in order to create a theme, or more uniform appearance.

A. Minimum requirements at the time of planting - two (2) trees minimum or one (1) tree of the following size per 1,500 square feet of open space, whichever is greater:

40 Percent – 2" or greater caliper diameter

Balance 1" to 2" caliper diameter

(Evergreen trees shall not be less than six feet in height.)

Residential One- and Two-Family Lots – 2 trees minimum (1" caliper or greater)

B. Minimum requirements at the time of planting – 6 shrubs, or 1 shrub per 1,000 square feet of open space, whichever is greater.

C. To reduce erosion, all disturbed open space areas shall have ground cover of grass or native vegetation that is installed as sod, or seeded, fertilized and mulched.

D. All development within the arterial corridor overlay, as described by paragraph (13)(F) of this section, shall adhere to the following:

Minimum requirements at time of planting shall be:

Two (2) trees minimum or two (2) trees per 1,500 square feet of open space, whichever is greater. Tree plantings shall follow the size schedule set forth above.

Six (6) shrubs or two (2) shrubs per 1,000 square feet of open space, whichever is greater.

3. Buffer Required. The following conditions shall require a buffer which shall be a landscaped area, wall, or other structure intended to separate and obstruct the view between two adjacent zoning districts, land uses or properties:

A. Any R-3, R-4, R-5 and R-6 District, all C Districts, and all M Districts which abut any AR, R-1 or R-2 Districts shall require a buffer as described in this section.

B. All M Districts which abut any R-3, R-4, R-5, R-6, and all C Districts shall provide a buffer as required by this section; however, if the use proposed within the M District is a use permitted in the adjoining district, the requirement of a buffer may be waived by the City Council after a recommendation from the Planning and Zoning Commission.

C. Any lot for a single-family or two-family or row dwelling in any Zoning District having both its front and rear lot lines abutting a public thoroughfare (a double frontage lot) shall be buffered with a landscape buffer adjoining the thoroughfare from which no access is planned or permitted.

D. Any storage area, garbage storage, junk storage or loading docks, and loading areas, in any District shall be screened from public street view by a buffer.

4. Buffers. Buffers required under the provisions of this section or elsewhere in the Zoning Ordinance shall be accomplished by any one or approved combination of the following methods:

A. Buffer Wall. A buffer wall shall not be less than six (6) feet in height; constructed of a permanent low maintenance material such as concrete block, cinder block, brick, concrete, precast concrete, tile block, etc.; the permanent low-maintenance wall shall be designed by an architect or engineer for both structural adequacy and aesthetic quality; weather resistant wood may be used as a substitute material if designed with adequate structural integrity and permanency and approved by the Planning and Zoning Commission and City Council.

B. Landscape Buffer. A landscape buffer shall not be less than twenty-five (25) feet in width, designed and landscaped with earth berm and predominant plantings of evergreen type trees, shrubs and plants so as to assure year around effectiveness; height of berm and density and height of plantings shall be adequate to serve as a solid and impenetrable screen. A vinyl coated chain link fence may exist for security purposes, but is not considered a part of the landscape screening to satisfy the intent of this requirement.

C. Contiguous to a Conservation and Open (COS) District, or district where adjoining buffer width is required, use of fence or wall, and landscaping required will be determined on a case-by-case basis upon review of the site plan taking into consideration the proposed use of the COS District for open space, trail or other use, unless otherwise specified in the Zoning Ordinance.

5. Burden of Provision of Buffer. The burden of provision and selection of the buffer shall be as follows:

A. Where two different zoning districts, requiring a buffer between them, are developed, the above requirement is not retroactive and a buffer is not required. If a buffer is desired, it shall be provided by mutual agreement between property owners. However, in the event that any or all of the improved property is abandoned, destroyed or demolished, for the purpose of renewal or redevelopment, that portion of such property being renewed or redeveloped shall be considered vacant and subject to the requirements herein.

B. Where one of two different Zoning Districts requiring a buffer between them is partly developed, the developer of the vacant land shall assume the burden, unless otherwise specified herein.

C. Where both Zoning Districts, requiring a buffer between them, are vacant or undeveloped, the burden shall be assumed by the developer of the land that is improved or developed first, except for agricultural uses and unless otherwise specified herein.

6. Waiver of Buffer Requirements. Where the line between two districts, requiring a buffer, follows a street, right-of-way, railroad, stream, or other similar barrier, the requirement for a buffer may be waived by the City Council, provided such waiver does not permit the exposure of undesirable characteristics of land use to public view.

7. Surfacing Requirements. All off-street parking, display, storage, sales, loading areas, and access roadways shall have a durable and hard surface paved with asphaltic or portland cement concrete pavement in accordance with the specifications as herein set forth. Off-street parking of automobiles, vans, campers, trucks, trailers, tractors, recreational vehicles, boats, construction equipment, and any other mobile vehicles equipped for street and highway travel shall be on an asphaltic or portland cement concrete paved off-street parking area as required herein and not parked or stored within the landscaped open space area of the front yard between the building and public street right-of-way. All off-street parking areas and associated driveways, access roadways and frontage roads, except driveways for single-family residences, shall be constructed with permanent, integrally attached 6" high curbing or curbing of alternate height acceptable to the City (prefabricated portable curb stops shall not be considered an acceptable alternate), and shall be so graded and drained as to dispose of all surface water accumulation within the area; and shall be so arranged and marked as to provide for orderly and safe loading or unloading and parking and storage of self-propelled vehicles. The curbing requirements may be waived if it is determined that surface drainage can be adequately handled by other means. The minimum thickness of pavement of the parking area shall be as follows:

A. Portland Cement Concrete shall have a minimum thickness of five (5) inches and the subgrade shall have a minimum subgrade modulus (k) of one hundred fifty (150). Additional thickness of Portland Cement Concrete may be required according to the pavement thickness design in the Urban Design Standards.

B. Asphaltic Cement Concrete shall have a minimum thickness of five and one-half (5½) inches and the subgrade shall have a minimum CBR of five

(5). Additional thickness of Asphaltic Cement Concrete may be required according to the pavement thickness design in the Urban Design Standards.

Material utilized in the subgrade shall be well drained and not susceptible to frost boils. The part of the parking utilized for driveways and access roadways, shall be specifically designed to accommodate the type and load bearing capacity of traffic anticipated. Driveways for individual single-family, detached or attached townhouse style residences on private property shall be portland concrete or asphaltic cement concrete with minimum thickness of five (5) inches and five and one-half (5½) inches, respectively, with a sufficiently compacted and well-drained subgrade base and not greater than eighteen (18) feet in width.

(Subsection 7 – Ord. 332 – Oct. 18 Supp.)

8. Landscaping, Screening and Open Space Requirements. It is desired that all parking areas be aesthetically improved to reduce obtrusive characteristics which are inherent to their use. Therefore, wherever practical and except for single- and two-family detached and townhouse style residential parking in driveways, parking areas shall be effectively screened from general public view by incorporating the natural landscape and topography with the introduction of permanent earth berming and landscape plantings.

A. All parking areas shall include landscaped areas, screens, islands etc., equal to not less than ten percent (10%) of the interior parking area. Such landscaped area shall be in addition to the open space requirements. Landscaped islands within the parking area shall have suitable, non-erodable groundcover (e.g., grass, shrubs, etc.). Landscape islands shall be at least eight feet (8') in width from the back of curb to the back of curb and landscape planters a minimum of six feet (6') in diameter. No parking space shall be greater than eighty feet (80') from a landscaped open space with a minimum area of two hundred fifty (250) square feet. Parking spaces shall be separated from any adjoining roadway, except that roadway or parking bay aisle providing direct access to the parking space, by a landscaped island or elevated separation (e.g., sidewalk) of a minimum 8-foot width.

B. Earth berming shall be a minimum of three (3) feet above the top of the curb of the adjoining parking lot, if applicable, or public thoroughfare, and shall be designed not to negatively affect the drainage of the surrounding area and to be aesthetically pleasing to the general public. Higher berms may be required if it is determined by the City that this standard is inadequate to provide effective screening and buffering. Plantings and shrubbery may be substituted for a portion of the height of the earth berm if it can be shown that the shrubbery provides adequate screening and improves the appearance of the development.

C. Any berming or planting designed to comply with this chapter must not create a traffic hazard by interfering with line of sight at intersections or driveways. [Section 165.08(12) of this Code of Ordinances]

D. Where berming will impede the owner or developer of a property from operating effectively (e.g., blocking the view of vehicles on a car sales lot) the developer may request relief from this chapter, provided such developer substitutes other design amenities/open space options that meet or exceed the aesthetic objective of this chapter according to the Planning and Zoning Commission and City Council.

9. Off-Street Parking Access to Public Streets and Internal Traffic Circulation. Off-street parking or loading facilities shall be provided in accordance with Section 165.29 of this Code of Ordinances. The parking and loading facilities shall be designed so as to permit entrance and exit by forward movement of the vehicle for all uses, except single-family detached or row dwellings which shall be permitted backward movement from a driveway. The backing or backward movement of vehicles from a driveway, off-street parking or loading area onto a major thoroughfare, including all thoroughfares designated as arterial streets or major collector streets on the Major Streets Plan shall be prohibited for all uses. Driveway approach returns shall not extend beyond the side lot line as extended, unless such driveway is of joint usage by the adjoining lots, and driveway approaches at roadway not greater than twenty-four (24) feet for single-family detached and townhouse residential dwellings, and thirty-seven (37) feet for multi-family, nonresidential uses and multiple building complexes. The number of ingress/egress access points to public streets from off-street parking areas shall be in accordance with the Urban Design Standards as approved by the City and located to limit vehicular conflicts, provide acceptable location of driveway accesses to public streets, preserve proper traffic safety and, where possible, not impair movement of vehicular traffic on public streets. The permitted number of ingress/egress driveway approaches to public streets for an off-street parking lot shall be dependent upon the projected future average daily traffic (ADT) for the public street and, as possible, public street accesses shall be located in alignment with driveway approaches gaining access to the same public street from property on the opposite side of the street. The design of off-street parking and loading facilities shall provide traffic circulation for the internal forward movement of traffic within the parking lot, so designed, as not to impair vehicular movement on public streets, or backing of vehicles from an off-street parking or loading area to a public street.

10. Persons With Disabilities – Accessible Parking Requirements. Provision of persons with disabilities parking spaces within off-street parking areas shall be in accordance with applicable Federal, State and local regulations, properly identified with signage and provided with accessible ramps and walks in accordance with Federal and State regulations, and comply with the following parking space minimum requirements:

Total Parking in Lot	Required Minimum Number of Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20, plus 1 for each 100 and over 1000

Access space or aisle adjacent to persons with disabilities accessible parking space shall be a minimum five (5) feet wide. One in every eight spaces, but not less than one, shall be served by an access space or aisle eight (8) feet wide minimum and shall be designated "van accessible."

11. Traffic Analysis Requirements. Any project which contains 100 dwelling units or 1,000 average daily trips as listed for uses in the Trip Generation Handbook; Institute of Transportation Engineers, current edition, shall submit a traffic analysis which provides necessary information to determine the effect that the project will have upon the surrounding traffic. At a minimum, the traffic analysis shall contain project trip generation, directional distribution of project trips, traffic assignment, and capacity analysis, including identification of congestion and turning-movement conflicts.

12. Waiver Of Requirements. The City Council reserves the right to waive or modify to a lesser requirement any provision or requirement of off-street parking and loading areas contained in this chapter, provided a report on such change is received from the Planning and Zoning Commission, and further provided said waiver or modification does not adversely affect the intent of these regulations to adequately safeguard the general public and surrounding property. Exceptions will only be considered for those uses where special circumstances warrant a change and whereby the modification or waiver is determined to be in the best interest of the general public.

13. Architectural Standards. As part of the submittal of a site plan for development within any of the zoning districts and for any of the uses except one- and two-family dwellings, architectural plans for buildings shall be submitted for review and approval by the City Council after recommendation from the Planning and Zoning Commission. Documentation to be submitted shall include color building elevations showing the building's design on all sides and a description of structural and exterior materials to be used. A material board shall be submitted if requested prior to consideration by the Planning and Zoning Commission. The following standards shall be used by the City to review architectural plans:

A. All Zoning Districts. Adequate treatment or screening of negative aspects of buildings (loading docks, loading areas, outside storage areas, garbage dumpsters and HVAC mechanical units) from any public street and adjoining properties shall be required. Buildings shall be designed or oriented not to expose loading docks, or loading areas to the public. Districts with primary material requirements shall adhere to these requirements not only by appearance but by actual material used.

(Ord. 332 – Oct. 18 Supp.)

B. Multiple-Family Dwellings In All Districts. Building shall be designed and constructed in a manner that is compatible with the adjoining residential uses in the neighborhood. Multiple-family buildings with single plane walls and/or boxy appearance shall not be considered acceptable. Buildings shall be designed with exterior details, texture, and creative use of angles and a multiplicity of planes within wall and roof design in order to enhance the building's physical appearance and eliminate plainness. All apartments and condominiums shall incorporate, at a minimum, forty percent (40%) brick or stone into the overall building design. All door or window openings shall count toward this requirement if surrounded by the hard

surface material. These openings shall not be designed to unreasonably reduce the amount of hard surface material that is used.

C. Nonresidential Uses In R Districts. Any building used for a permitted nonresidential use in an R District shall be designed and constructed with architecture and use of materials compatible with the residential uses within the neighborhood. Buildings located on a residential street in an R District shall be residential in character, and exterior materials shall be wood, brick and/or brick veneer.

D. All Uses Within Any C District. Buildings within any C District shall be designed having as a primary element of the building exterior: fascia glass, brick, concrete panels, textured concrete block or stone, with all sides of any building consistent in design and use of materials. These materials shall make up at least 60% of the total area of each side of each structure. No wood, vinyl, masonite, asphaltic wall material, aluminum or steel siding, non-architectural sheet metal, non-textured concrete block, stucco or other similar materials shall constitute a portion of any building except as a trim material, unless the City Council, after receiving a recommendation from the Planning and Zoning Commission, shall determine said material, when used as a primary element, does not distract from the physical appearance of the building. The architectural design and use of materials for the construction shall be reviewed as part of any site plan.

E. All Uses Within The M Districts. The exterior material of the building's front elevation shall be comprised of brick, concrete panels, textured concrete block, stone panels, or other similar material. These materials shall be present on at least 60% of the building's front and must be present on other sides as at least trim material. The predominant material in these side walls may be textured metal panels, architectural metal or similar material. The use of sheet metal (ribbed metal panels) as an exterior building material shall not be considered acceptable for any facade. No wood, vinyl, masonite, asphaltic wall material, aluminum or steel siding, non-textured concrete block, stucco or other similar materials shall constitute a portion of any building except as a trim material, unless the City Council, after receiving a recommendation from the Planning and Zoning Commission, shall determine said material, when used as a primary element, does not distract from the physical appearance of the building. The architectural design and use of materials for the construction shall be reviewed as part of any site plan. (M-2 District: This section does not apply to development in an M-2 area, provided that the GFA of the site is in excess of 150,000 square feet per floor.)

F. Arterial Corridor Overlay. All commercial zoned lots within 600 feet of Highway 169 or Interstate 80 shall adhere to the following standards:

(1) All buildings must be designed to include brick, stone or glass as primary materials on at least 50% of each elevation. Split face block, EFIS and precast materials may be used as a secondary material. Residential-style cementitious or metal siding or paneling may only be used as a trim material and must not make up more than 10% of any elevation. This requirement may be waived in all or in part by application of approval of an alternative design to the

Planning and Zoning Commission and City Council if it is demonstrated by the property owner that a durable material such as metal or concrete with appropriate materials for all or part of the building side is inconsistent or unnecessary based upon the proposed use of the structure, the appearance of other buildings in the immediate vicinity, and the attractiveness of the proposed alternative design. If an alternative design is proposed a material board will be required by Planning and Zoning Commission

(2) All buildings should be designed to minimize single plane walls and boxy appearance through the use of pitched roofs, dormers, cupolas, multiple roof lines, and relief in long wall expanses.

(3) Every effort should be made to ensure that a building or development is compatible in use and design with its surroundings.

(4) The Council, in its sole discretion and after receiving a recommendation from the Planning and Zoning Commission, may approve additional primary and/or secondary materials on a case-by-case basis, provided that such materials exhibit the structural strength and permanency desired, contain sufficient architectural relief, and do not distract from the physical appearance of the building.

Buildings proposed in commercial or industrial areas that are adjacent to less intense uses (e.g., residential or civic uses) should be designed with an articulated roofline, giving emphasis to architectural elements that will help divide the mass of a large building into smaller, identifiable parts. Commercial and industrial buildings shall incorporate façade modulation in all building elevations visible to the public or adjacent to other less intense uses in order to preserve building scale and reduce the effect of long, large, or expansive wall surfaces. All loading and doorway area must be protected by quality materials. Variation of these surfaces can be accomplished by physical offsets or the use of color, pattern, or texture. Buildings shall incorporate architectural design elements, materials, and colors into the side and rear building elevations similar to those used in the front building elevation.

(Subsection F – Ord. 332 – Oct. 18 Supp.)

156.05 REVIEW GUIDELINES. When reviewing a site plan, the Planning and Zoning Commission and City Council shall consider the following guidelines. In no case may these guidelines be used to attempt to replace or override the requirements of the De Soto Zoning Ordinance.

1. Architectural Design – Multiple-Family. Exterior building materials, exterior details and texture, treatment of windows and doors, and a variety in the wall and roof design shall be used to lessen the plainness of appearance which can be characteristic of large residential buildings.

2. Compatibility. Neighboring buildings should fit well together in appearance of architectural style, materials, scale, and color, as viewed from the street scape. This criterion shall not mean that all buildings must look alike.

3. Harmony. The development shall be aesthetically pleasing from the combination of architectural design, landscape elements, miscellaneous structures, and the design of movement of vehicular and pedestrian traffic.

4. Landscape Elements. The various elements of nature, topography, buildings and other manmade objects shall be viewed in relation to one another.

5. Miscellaneous Structures. Consideration shall be given to structures, other than buildings, visible from public ways. Examples are: monuments, antennas, sheds, shelters, fences, and walls, transformers, drive-up facilities.

6. Scale. Consideration shall be given to the relationship of the size of elements to one another and to the human figure.

7. Screening. Consideration shall be given to structures and/or plantings that conceal an area from view from a public way.

8. Street Furniture. Manmade objects other than buildings that are part of the street scape shall be considered. Examples are: benches, litter containers, planting containers, sculptures vending machines and newspaper dispensers.

9. Street Scape. Consideration shall be given to the scene from the public street or way composed of natural and manmade elements, including buildings, paving, plantings, street furniture, and miscellaneous structures.

156.06 BUILDING PERMITS - APPLICATION. No building permit shall be issued for the construction of any structure that is subject to the provisions of this chapter until a site plan has been submitted for review covering the land upon which said structure is to be erected, and further, approved by City Council for such development in accordance with this chapter. No site plan shall be approved for any horizontal property regime until the declaration as to the horizontal property regime required by Section 499B.3, Code of Iowa, shall have been approved by the City Council. No such declaration as to the horizontal property regime shall be recorded with the County Recorder until approval by the City Council shall have been endorsed thereon.

156.07 PROCEDURE.

1. Pre-Application Conference. Whenever any person proposes to place any structure for which a building permit is required under any other section of this Code, on any tract or parcel of land within any district of the De Soto Zoning Ordinance, and any use, except one- and two-family dwellings, the person shall submit to the City Clerk a request for a Pre-Application Conference. The Conference shall include the applicant (or his or her representative) and the City Staff. The purpose of the Conference shall be to acquaint the City Staff with the proposed construction and to acquaint the applicant or representative with the procedures and with any special problems that might relate to such construction. The applicant shall furnish a legal description of the subject real estate at the time of requesting a Pre-Application Conference, and the Conference shall be held within seven (7) days of such request.

2. Continuous Site Plan Review. After completion of the Pre-Application Conference as required by subsection 1 of this section, and in the event the applicant wishes to proceed with the construction as discussed at said Conference, the applicant shall cause to be prepared a site plan of such proposed construction including colored exterior elevations, and shall submit six (6) copies of the same to the City Clerk and one (1) copy to the City Engineer. The site plan shall be accompanied by a cover letter requesting review and approval of said plan and an application fee in an amount as established by resolution of the Council. ***(Ord. 332 – Oct. 18 Supp.)***

The applicant shall also be responsible for just and reasonable costs incurred by the City for review of site plans deemed necessary by the City to insure proper conformance with City ordinances and standard specifications. The site plan shall contain all the information required by Sections 156.04 and 156.05 of this chapter unless otherwise waived by the City Staff. The City Engineer shall review the plan for conformance of the design to the standards and required data set forth in Section 156.03 and Section 156.04 of this chapter.

3. Action:

A. The City Engineer shall promptly notify the applicant in writing of any revisions or additional information needed. If necessary, the applicant shall make revisions and resubmit the revised plan(s) to the City Clerk and Engineer for compliance. All comments from City Staff must be addressed and documents appropriately revised before Commission review. If the site plan complies with requirements set forth in this chapter, the applicant shall submit twelve (12) copies of the plan to the Planning and Zoning Commission for approval, disapproval or approval subject to conditions. ***(Ord. 332 – Oct. 18 Supp.)***

B. The Commission, in its regularly scheduled meeting, shall act upon the site plan and accompanying material. The City Engineer, City staff and other departments shall submit to the Commission their recommendation. The applicant or a representative shall be present at the meeting. Action of the Commission shall be approval, approval subject to conditions, denial, or table for further review.

C. Approval by Commission. In the case of approval by the Commission, the approval shall be documented on eight copies of the site plan. One copy shall be returned to the applicant, one copy retained by the Commission and six copies shall be forwarded to the City Council. Additional copies of the plan may be required, at the City's request.

D. Conditional Approval by Commission. In the case of approval subject to conditions by the Commission, the approval shall be documented on eight copies of the site plan and the conditions determined attached thereto. One copy shall be returned to the builder, one copy shall be retained by the Commission, and six copies shall be forwarded to the City Council. The applicant shall provide revised copies of the site plan in accordance with the Commission action and submit 12 copies to the City Clerk prior to Council action. The City Clerk shall forward one copy to the City Engineer, six copies to the City Council and one copy for the Commission files, and the remaining balance to other City Departments/Utilities.

E. Disapproval by Commission. In the case of disapproval by the Commission, the disapproval shall be documented on three copies of the site plan. One copy shall be returned to the applicant, one copy shall be retained by the Commission, and one copy shall be retained by the City Clerk.

F. Council Action. At the next regularly scheduled Council meeting following Commission action, the Council shall act on the site plan and accompanying material. The applicant or a representative shall be present at the meeting. Action of the Council shall be approval, denial, or table for further review.

G. Approval by Council. In the case of approval by the Council, the approval shall be documented on three copies of the site plan. One copy shall be returned to the applicant. One copy shall be forwarded to the City Engineer, and one copy shall be retained by the City Clerk. Applicant may then proceed with approval of building permit and accompanying material.

H. Denial by Council. In the case of denial by the Council, the denial shall be documented on three copies of the site plan. One copy shall be returned to the applicant, one to the Engineer, and one copy shall be retained by the City Clerk.

I. Resubmittal of Site Plan Denied by Council. A site plan that has been approved by the Commission and denied by the Council may be revised by the applicant in accordance with the Council action and 12 copies resubmitted to the Commission for approval as before.

J. Resubmittal of Site Plan Denied by Council and Commission. A site plan that has been denied by both the Commission and the Council may be resubmitted to the City by the applicant for Commission and Council approval with respect to the original terms of these procedures, which includes 12 copies of the preliminary plat and filing fees. Resubmittal under these terms shall be considered a new site plan subject to fees and procedures outlined in this section.

156.08 VALIDITY OF APPROVAL.

1. A site plan shall become effective upon certification of approval by the City Council.

2. The City Council approval of any site plan required by this chapter shall remain valid for one year, allowing one-year extension with approval of City Council upon recommendation of the Commission after the date of approval, after which time the site plan shall be deemed null and void if the development has not been established or actual construction commenced. For the purpose of this chapter, "actual construction" means that the permanent placement of construction materials has started and is proceeding without undue delay. Preparation of plans, securing financial arrangements, issuance of building permits, letting of contracts, grading of property, or stockpiling of materials on the site shall not constitute actual construction.

3. Exemption: At the time of site plan approval, the City Council may grant an exemption on the time construction must begin after their approval is given for a utility service structure.

156.09 SITE PLAN AMENDMENT. Any site plan may be amended in accordance with the standards and procedures established herein, including payment of fees, provided that City Staff may waive such procedures for those minor changes hereinafter listed. Such minor changes shall not be made unless the prior written approval for such changes is obtained from City Staff. No fees shall be required for such minor changes.

1. Moving building walls within the confines of the smallest rectangle that would have enclosed each original approved building. Relocation of building entrances or exits, shortening of building canopies.

2. Changing to a more restrictive commercial or industrial use, provided the number of off-street parking spaces meets the requirement of the De Soto Zoning Ordinance. This does not apply to residential uses.

3. Changing angle of parking or aisle provided there is no reduction in the amount of off-street parking as originally approved.

4. Substituting plant species, provided a landscape architect, engineer or architect certifies the substituted species is similar in nature and screening effect.

5. Increasing peripheral yards.

156.10 APPLICABILITY TO EXISTING DEVELOPMENT.

1. Increasing the Size of a Building, Lot, Parking Area, etc. Any improvement that will increase the size of a building, lot, parking area, etc. shall be submitted for review by the City.

A. If the proposed improvement increases the size of a building or lot by less than 25%, it shall be submitted for review by City staff and approved or disapproved by City staff. In such a case, fees and applicable expenses will be due and payable to the City. City staff shall have the authority to require such a project to be reviewed by the Commission and Council if they feel such review is warranted.

B. If the proposed change is in excess of 25%, it shall be submitted for full review and approval or disapproval by the Planning and Zoning Commission and City Council. In such a case, fees and applicable expenses will be adjusted accordingly and will be due and payable to the City.

2. Noncompliance with Regulations. Any improvement or maintenance to any structure or site feature must not cause the site or building to become non-compliant with the regulations set forth in this chapter. If the site or building is already non-compliant, the change to the building or site proposed by the owner must not cause them to become more non-compliant. For example, a building approved with a given amount of brick, glass or concrete panels may not replace these materials with EIFS, vinyl or metal siding. City Council, after receiving a recommendation from the Planning and Zoning Commission, may determine said material when used as a primary element does not distract from the physical appearance of the building.

156.11 VIOLATIONS AND PENALTIES. Any person, firm, partnership, association or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor. The imposition of a penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violation or defects within a reasonable time; and when not otherwise specified, each thirty (30) days that prohibitive conditions are maintained shall constitute a separate offense. In addition, the City may proceed in law or in equity to restrain, correct or abate such violation, to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct of business, or use in or about said premises.

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CHAPTER 157

URBAN DESIGN STANDARDS

157.01 Purpose and Scope
157.02 Design Standards and Standard Specifications
157.03 Effective

157.01 PURPOSE AND SCOPE. It is the purpose of this chapter to provide for uniform design standards and standard specifications for public improvements constructed in the City of De Soto, Iowa.

157.02 DESIGN STANDARDS AND STANDARD SPECIFICATIONS. The *Urban Design Standards for Public Improvements* and the *Urban Standard Specifications for Public Improvements* adopted by the Des Moines Metropolitan Improvements Design Standards and Specifications Committee (now known as the Urban Standard Specifications Committee) are hereby adopted by reference.

157.03 EFFECTIVE. The *Urban Design Standards for Public Improvements* and the *Urban Standard Specifications for Public Improvements* shall constitute the official design standards and standard specifications for construction of public improvements in the City of De Soto, Iowa, for all public improvement projects authorized by the City after the final adoption of the ordinance codified by this chapter, and shall remain in effect until amended or repealed by the City Council. Copies of the *Urban Design Standards for Public Improvements* and the *Urban Standard Specifications for Public Improvements* are on file at City Hall.

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CHAPTER 158

INTERNATIONAL FIRE CODE

158.01 2003 International Fire Code 158.02 Amendments, Modification, Additions and Deletions

158.01 2003 INTERNATIONAL FIRE CODE. Pursuant to published notice and public hearing, as required by law, the *International Fire Code*, 2003 Edition, published by the International Fire Code Institute, is hereby adopted in full except for such portions as may hereinafter be deleted, modified or amended.

158.02 AMENDMENTS, MODIFICATIONS, ADDITIONS AND DELETIONS. The following amendments, modifications, additions and deletions to the *International Fire Code*, 2003 Edition, are hereby made:

1. Insert Section 101.1 The City of DeSoto.

2. Add Section 114.1 Life Safety Plans.

   All life safety plans submitted for review to include by not limited to: fire sprinkler system plans, fire alarm system plans and clean agent system plans shall be designed and stamped by a person with a minimum of a NICET III certification, qualified engineer with 2 years demonstrated experience in Life Safety System Design or equivalency as determined by the Code Official. Plan approval will be based upon the plans submitted by the equipment supplier utilizing the above requirements.

3. Add Section 117 Occupancy Requirement.

4. Add Section 117.1 General.

   When a building is used for more than one occupancy purpose or use, the entire building shall meet the requirements of this Section of the Code based on the requirements for the most restrictive occupancy group as defined in Chapter 3 of the 2003 International Building Code.

5. Add to Section 202:

   Business is a commercial enterprise or establishment that is not part of a home occupation, for the purposes of this chapter.

6. Add to Section 202:

   Commercial Buildings or structures are buildings or structures that are used for purposes other than detached dwellings, for the purposes of this code.

7. Add to Section 202:

   Condominium is a building, or group of buildings, in which dwelling units, offices, or floor area are owned individually (ownership statue does not apply), and the structure, common areas (sidewalks, hallways, stairs and elevators) and facilities are owned by all the owners on a proportional, undivided basis, for the purposes of this code.

8. Add to Section 202:

Dwelling is a detached building on a building site designed for and used exclusively for residential purposes by one or two families and containing one or two dwelling units, for the purposes of this code.

9. Add to Section 202:

Fire Prevention Bureau is the Fire Department of the jurisdiction.

10. Add to Section 202:

Licensed Day Care is a daycare that is licensed with the State of Iowa.

11. Add to Section 202:

Licensed Fire Alarm Monitoring Service is a business that supplies and/or contracts with a UL listed remote station monitoring service.

12. Add to Section 202:

Self-luminous is having the ability to self-generate light without the aid of batteries or electrical current.

13. Add to Section 202:

Town House is a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another unit, each units is separated from any other unit by one or more vertical common fire-resistant walls and each unit is independently owned to include the land the dwelling unit is built on (ownership status does not apply), for the purposes of this code.

14. Amend Section 308.3.1 to read as:

Barbeque Grills and Other Devices. No barbeque grills or other devices which produce ashes or embers shall be operated or stored within twenty (20) feet of multi-story buildings such as Apartment buildings and Condominiums. A maximum of one 20# propane cylinder attached to the docking device shall be allowed. Exception: One- and two-family dwellings and town homes.

15. Delete Section 308.3.1.1

16. Add Section 508.5.2.1

Fire Hydrant Maintenance Schedule. Private fire hydrants shall be inspected, tested and lubricated on a five-year basis by the DeSoto Water Works per rules established by the DeSoto Water Works.

17. Add Section 508.5.4.1

Fire Hydrant Installation. Hydrants shall be installed with grade mark on hydrant at finish grade with steamer connection facing parking lot or access road for fire truck hook-up.

18. Add Section 508.8.2.2

Fire Hydrant Markers and Identification Color. When required by the Chief, hydrant locations shall be identified by the installation of red reflective markers. Both public and private hydrants shall be painted Tnemec gloss yellow 2H-BV57 HI-Build with yellow reflective liquid 3M7211 on the bonnet.

19. Add Section 511. Fire Lanes.

511.1 General. Fire Department fire lanes shall be provided and maintained in accordance with Section 511.

511.2 Designation. The Code Official may designate fire lanes on private and public property as deemed necessary for the protection of life and property.

511.3 Obstruction. No person shall stop, stand, park a vehicle, place or keep any obstruction or thing in a designated fire lane that would prevent such fire lane from being immediately accessible to the Fire Department of in any other manner to deter or hinder the Fire Department from gaining immediate access to the fire lane. A written request to the Code Official for temporary obstruction of a fire lane shall be submitted for approval.

511.4 Signs and Markings. Wherever a fire lane has been designated, the Code Official shall cause appropriate signs and markings to be placed identifying such fire lanes. Fire lanes may be painted traffic red in addition to fire lane signage. Fire lane signs shall be permanently mounted and the front of the sign set at 90 degrees to the street facing the direction of travel. Fire lane signs shall be placed 2 - 4 feet from the edge of the street. The top of fire lane signs shall be approximately 6 feet from the ground. Intermediate fire lane signs shall be set every 100 feet in a continuous fire lane. The BEGINS sign shall mark the beginning of a fire lane and shall be mounted below the first fire lane sign. The ENDS sign shall mark the ending of a fire lane and shall be mounted below the last fire lane sign. Signs shall be 18 inches tall x 12 inches wide, with red letters on a white reflective background to read "Fire Lane – No Parking Except for Emergency Vehicles, Fine $50", conforming to State law.

20. Delete Sections 603.8, 603.8.1, 603.8.2, 603.8.3, 603.8.4 and 603.8.5.

21. Amend Section 903.2 Where Required to read as follows:

An approved automatic fire extinguishing system is required if the gross square footage of a building is equal to or greater than the following:

22. Delete Sections 903.2.1, 903.2.1.1, 903.2.1.2, 903.2.1.3, 903.2.1.4, 903.2.1.5, 903.2.2, 903.2.3, 903.2.3.1, 903.2.4, 903.2.4.1, 903.2.4.2, 903.2.4.3, 903.2.5, 903.2.6, 903.2.6.1, 903.2.7, 903.2.8, 903.2.8.1, 903.2.8.2, 903.2.9, 903.2.9.1

23. Add Section 903.2.1. Group A to read as follows:

Group A:	A-1. Buildings or structures or portions thereof, having an assembly use, usually with fixed seating, intended for the production and viewing of the performing arts or motion pictures including, but not limited to: See IFC Occupancy Classification definition A-1.	
	1. Occupant load of 299 or less.	5,000 s.f.
	2. Occupant load of 300 or more.	0 s.f.
	A-2. Buildings or structures or portions thereof, having an assembly use intended for food and/or drink consumption including, but not limited to: See IFC Occupancy Classification definition A-2.	5,000 s.f.

	A-3. Buildings or structures or portions thereof, having an assembly use intended for worship, recreation or amusement and other assembly uses not classified elsewhere in Group A, including, but not limited to: See IFC Occupancy Classification definition A-3.	5,000 s.f.
	A-4. Buildings or structures or portions thereof, having an assembly use intended for viewing of indoor sporting events and activities with spectator seating, including, but not limited to: See IFC Occupancy Classification definition A-4.	5,000 s.f
	A-5. Buildings or structures of portions thereof, having an assembly use intended for participation on or viewing outdoor activities including, but not limited to: See IFC Occupancy Classification definition A-5 and IFC Section 903.2.1.5 for areas to be provided with protection.	1,000 s.f.

24. Add Section 903.2.2 Group B to read as follows:

Group B	B. Buildings or structures of portions thereof, used for office, professional or service type transactions, including storage of records and accounts. Business occupancies shall include, but not be limited to: See IFC Occupancy Classification definition B.	6,000 s.f.

25. Add Section 903.2.3 Group E to read as follows:

Group E	E. Buildings or structures or portions thereof, used by six more persons at any one time for educational purposes.	0 s.f.
	A Licensed Day Care is any buildings or structures, or portions thereof, used for educational, supervision or personal care services for more than five children older than 2 years of age, and shall be classified as an E occupancy.	0 s.f.

26. Add Section 903.2.4 Group F to read as follows:

Group F	F-1. Moderate hazard factory and industrial occupancies including factory and industrial uses not classified as Group F, Division 2 Occupancies shall include, but not be limited to: See IFC Occupancy Classification definition F-1.	6,000 s.f.
	F-1.1. Woodworking operations which generate finely divided combustible waste or use finely divided combustible materials.	2,500 s.f.

27. Add Section 903.2.5 Group H to read as follows:

Group H	H-1. Buildings or structures or portions thereof, that pose a detonation hazard in excess of those listed in Table 307.7(1) (See 2003 IBC) shall include, but not be limited to: See IFC Occupancy Classification definition H-1.	0 s.f.
	H-2. Buildings or structures or portions thereof, which contain materials that pose a deflagration hazard or a hazard from accelerated burning in excess of those listed in Table 307.7(1) (See 2003 IBC) shall include, but shall not be limited to: See IFC Occupancy Classification definition H-2.	0 s.f.
	H-3. Buildings or structures or portions thereof, which contain materials that readily support combustion or pose physical hazard in excess of those listed in Table 307.7(1) (See 2003 IBC) shall include, but not be limited to: See IFC Occupancy Classification definition H-3.	0 s.f.
	H-4. Buildings or structures or portions thereof, which contain materials that are health hazards in excess of those listed in Table 307.7(1) (See 2003 IBC) shall include, but shall not be limited to: See IFC Occupancy Classification definition H-4.	0 s.f.
	H-5. Semiconductors fabrication facilities and comparable research and development areas in which production materials are used, and the aggregate quantity of material is in excess of those listed in Tables 307.7(1) and 307.7(2) (See 2003 IBC). Such facilities and areas shall be designed and construction in accordance with Section 415.9 of IBC. Design of the sprinkler system shall not be less than Table 903.2.4.2	0 s.f.
	Pyroxylin plastics. Buildings or structures where cellulose nitrate film or pyroxylin plastics are manufactured, stored or handled in quantities exceeding 100 pounds.	0 s.f.

28. Add Section 903.2.3 Group I to read as follows:

Group I	I-1. Buildings or structures or portions thereof, housing more than 16 persons, on a 24-hour basis, who because of age, mental disability or other reasons, live in a supervised residential environment but which provides personal care services. The occupants are capable of responding to an emergency situation without physical assistance from staff. A facility such as above with five or fewer persons shall be classified as Group R-3. A facility such as the above with at least six and not more than 16 persons shall be classified as Group R-4.	0 s.f.

	I-2. Buildings or structures or portions thereof, used for medical, surgical, psychiatric, nursing or custodial care on a 24-hour basis of more than five persons who are not capable of self-preservation. A facility such as the above with five or fewer persons shall be classified as Group R-3. Child Care facilities are any buildings or structures, or portions thereof, which provide care on a 24-hour basis to more than five children 2 years of age or younger shall be classified as Group I-2.	0 s.f.
	I-3. Buildings or structures or portions thereof, which are inhabited by more than five persons who are under restraint or security. See IFC Occupancy Classification definition I-3 for type of condition.	0 s.f.
	I-4. Buildings or structures or portions thereof, which are occupied by persons of any age who receive custodial care for less than 24 hours by individuals other than parents or guardians, relatives by blood, marriage or adoption and in a place other than the home of the person cared for. A facility such as the above with five or fewer persons shall be classified as Group R-3. Places of worship during religious functions are not included.	0 s.f.
	Adult care facilities provide accommodations for less than 24 hours for more than five unrelated adults and provide supervision and personal care services. Child care facilities provide supervision and personal care on less than a 24-hour basis for more than five children 2 years of age or younger.	0 s.f.

29. Add Section 903.2.7 Group M to read as follows:

Group M	Buildings or structures or portions thereof, for the display and sale of merchandise, and involving stocks of goods, wares or merchandise, incidental to such purposes and accessible to the public shall include, but not be limited to : See IFC Occupancy Classification definition Group M. (High-piled storage to refer to Chapter 23 IFC)	6,000 s.f.

30. Add Section 903.2.8 Group R to read as follows:

Group R	R-1, 2, 3 of more than 15 units and in R-Division 4 shall have a monitored fire alarm system. Upon notification, Group R-1, R-3 (more than 15 units) and in R-Division 4, having existing fire alarm systems shall comply within 2 years to meet the monitoring of the fire alarm system.	0 s.f.
	R-4. Residential Care/Assisted Living facilities for more than five but not more than 16 occupants, excluding staff.	0 s.f.

31. Add Section 903.2.9 Group S to read as follows:

Group S	S-1. Moderate hazard storage occupancies including buildings or portions of buildings used for storage of combustible materials not classified as Group S, Division 2 or Group H Occupancies, but not limited to: See IFC Occupancy Classification definition Group S-1.	6,000 s.f.
	Repair garages/Service stations	3,500 s.f.
	Bulk Storage of tires	20,000 cu.f.
	S-2. Low-hazard storage occupancies including buildings or portions of buildings used for storage of noncombustible materials, but not limited to: See IFC Occupancy Classification definition Group S-2.	15,000 s.f.

32. Add Section 903.2.10 Group U to read as follows:

Group U	Private garages, carports, sheds and agricultural buildings	N/A

33. Add Section 903.2.10.4 R-3

Emergency Egress Option. A complete NFPA 13 D sprinkler system may be installed in lieu of the emergency egress in basements, Division R-3 occupancies.

34. Add Section 903.3.7.2

Fire Department Connection Identification. A minimum of 110 candela weatherproof strobe light suitable for cold weather use with a minimum of 75 candela at -30 degrees shall be tied into the building fire alarm system and mounted directly above the fire department connection between 7 feet and 10 feet in height from the ground or as approved by the Code Official.

35. Add Section 903.3.7.3

Fire Sprinkler Riser Rooms. Fire sprinkler riser rooms shall be separated from electrical rooms and have no electrical panels inside the rooms other than outlets required for the use of the fire sprinkler system or fire alarm panel. Access to fire sprinkler riser room shall not be accessed from the electrical room bit the electrical room may be accessed from the fire riser room.

36. Amend Table 906.3(1) Fire Extinguishers for Class A Fire Hazards to read as follows:

Portable fire extinguishers for fire protection in low and moderate hazard occupancies shall be 5# ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a low or moderate hazard occupancy, a 10# ABC fire extinguisher shall be installed. Spacing is based on a 75' travel distance to the fire extinguisher. Portable fire extinguishers for fire protection in high hazard occupancies shall be 10# ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a high hazard occupancy, a 20# ABC

fire extinguisher shall be installed. Spacing is based on a 50' travel distance to the fire extinguisher.

37. Amend Table 906.3(2) Fire Extinguishers for Flammable and Combustible Liquids with Depths of Less Than or Equal to .25 in. to read as follows:

Portable fire extinguishers for fire protection in low hazard occupancies shall be 5# ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a low hazard occupancy, a 10# ABC fire extinguisher shall be installed. Spacing is based on a 50' travel distance to the fire extinguisher. Portable fire extinguishers for fire protection in moderate hazard occupancies shall be 10# ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a moderate hazard occupancy, a 20# ABC fire extinguisher shall be installed. Spacing is based on a 50' travel distance to the fire extinguisher. Portable fire extinguishers for fire protection in a high hazard occupancy shall be 20# ABC in buildings that are covered throughout with a fire sprinkler system. If there is no fire sprinkler system in a high hazard occupancy, a 20# ABC fire extinguisher shall be installed. Spacing is based on a 50' travel distance to the fire extinguisher with a fire sprinkler system, 30' travel distance with no fire sprinkler system. Other hazardous occupancies will refer to NFPA 10.

38. Add Section 1006.3(6)

Illumination Emergency Power Restrooms. Exiting illumination shall be provided by battery pack or on-site generator to restrooms with more than one fixture and/or handicap accessible.

39. Add Section 1011.1.1

Additional Exit Signs. Exit signs may be required at the discretion of the Code Official to clarify an exit or exit access.

40. Add Section 1011.1.2

Floor-level Exit Signs. Low-level exit signs meeting illumination requirements of Section 1003.2.10.4 shall be provided in all interior exit corridors serving guest rooms of hotels/motels in Group R, Division 1 occupancies.

The bottom of the sign shall not be less than 6 inches (152mm) or more than 8 inches (203mm) above the floor level. For exit doors, the signs shall be on the door or adjacent to the door with the closest edge of the sign within 4 inches (102mm) of the door frame.

41. Amend Section 1011.5.2

Exit Sign Illumination to read as follows: Exit signs shall use an LED lighting system and be illuminated internally. Exit signs shall have battery backup unless an on-site generator set is used. Luminance on the face of an exit sign shall have an intensity of not less than 5.0 foot-candles (53.82 lux).

42. Add Section 1011.5.4

Combination Lights. Combination exit signs/emergency lights shall not be allowed.

43. Add Section 1011.5.5

Self-luminous Exit Signs. Self-luminous exit signs installed after January 1, 2004 are not allowed throughout the entire City of DeSoto.

Exception: Approved self-luminous exit signs may be allowed in tents by the Code Official.

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CHAPTER 160

FLOOD PLAIN REGULATIONS

160.01 Purpose
160.02 Definitions
160.03 Statutory Authority, Findings of Fact and Purpose
160.04 General Provisions
160.05 Administration
160.06 Establishment of Floodplain (Overlay) District
160.07 Standards for Floodplain (Overlay) District
160.08 Establishment of Variance Procedures
160.09 Nonconforming Uses
160.10 Penalties for Violation
160.11 Amendments

160.01 PURPOSE. It is the purpose of this chapter to protect and preserve the rights, privileges and property of the City and its residents and to preserve and improve the peace, safety, health, welfare, comfort and convenience of its residents by minimizing flood losses with provisions designed to:

1. Restrict Use. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flood or which cause excessive increases in flood heights or velocities.

2. Vulnerable Uses Protected. Require that uses vulnerable to floods, including public facilities which serve such uses, be protected against flood damage at the time of initial construction or substantial improvement.

3. Unsuitable Land Purchases. Protect individuals from buying lands which may not be suited for intended purposes because of flood hazard.

4. Flood Insurance. Assure that eligibility is maintained for property owners in the community to purchase flood insurance through the National Flood Insurance Program.

160.02 DEFINITIONS. 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.

1. "Appurtenant structure" means a structure which is on the same parcel of the property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

2. "Base flood" means the flood having one (1) percent chance of being equaled or exceeded in any given year (also commonly referred to as the "100-year flood").

3. "Base flood elevation (BFE)" means the elevation floodwaters would reach at a particular site during the occurrence of a base flood event.

4. "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."

5. "Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations or storage of equipment or materials. "Development" does not include "minor projects" or "routine maintenance

of existing buildings and facilities" as defined in this section. It also does not include gardening, plowing, and similar practices that do not involve filling or grading.

6. "Enclosed area below lowest floor" means the floor of the lowest enclosed area in a building when all the following criteria are met:

A. The enclosed area is designed to flood to equalize hydrostatic pressure during flood events with walls or openings that satisfy the provisions of Section 160.07(D)(1) of this Ordinance, and

B. The enclosed area is unfinished (not carpeted, drywalled, etc.) and used solely for low damage potential uses such as building access, parking or storage, and

C. Machinery and service facilities (e.g., hot water heater, furnace, electrical service) contained in the enclosed area are located at least one (1) foot above the base flood elevation, and

D. The enclosed area is not a "basement" as defined in this section.

7. "Existing construction" means any structure for which the "start of construction" commenced before the effective date of the first floodplain management regulations adopted by the community.

8. "Existing factory-built home park or subdivision" means 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.

9. "Expansion of existing factory-built home park or subdivision" means 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).

10. "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 Ordinance factory-built homes include mobile homes, manufactured homes, and modular homes; and also include "recreational vehicles" which are placed on a site for greater than 180 consecutive days and not fully licensed for and ready for highway use.

11. "Factory-built home park" means a parcel or contiguous parcels of land divided into two or more factory-built home lots for sale or lease.

12. "Five hundred (500) year flood" means a flood, the magnitude of which has a two-tenths (0.2) percent chance of being equaled or exceeded in any given year or which, on average, will be equaled or exceeded at least once every five hundred (500) years.

13. "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.

14. "Flood insurance rate map (FIRM)" 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.

15. "Flood insurance study (FIS)" means a report published by FEMA for a community issued along with the community's Flood Insurance Rate Map(s). The study contains such background data as the base flood discharge and water surface elevations that were used to prepare the FIRM.

16. "Floodplain" means any land area susceptible to being inundated by water as a result of a flood.

17. "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, floodproofing and floodplain management regulations.

18. "Floodproofing" 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.

19. "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 flood waters or flood flows so that confinement of flood flows to the floodway area will not cumulatively increase the water surface elevation of the base flood by more than one (1) foot.

20. "Floodway fringe" means those portions of the Special Flood Hazard Area outside the floodway.

21. "Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

22. "Historic structure" means 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.

23. "Lowest floor" means the floor of the lowest enclosed area in a building including a basement except when the criteria listed in the definition of Enclosed Area below Lowest Floor are met.

24. "Maximum damage potential uses" means hospitals and like institutions; buildings or building complexes containing documents, data, or instruments of great public value; buildings or building complexes containing materials dangerous to the public or fuel storage facilities; power installations needed in emergency or other buildings or building complexes similar in nature or use.

25. "Minor projects" means small development activities (except for filling, grading and excavating) valued at less than $500.

26. "New construction" means (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.

27. "New factory-built home park or subdivision" means a factory-built home park or subdivision for which the construction of facilities for servicing the lots on which the factory-built homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the effective date of the first floodplain management regulations adopted by the community.

28. "Recreational vehicle" means a vehicle which is:

A. Built on a single chassis;

B. Four hundred (400) square feet or less when measured at the largest horizontal projection;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. Designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

29. "Routine maintenance of existing buildings and facilities" means 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.

30. "Special flood hazard area (SFHA)" means the land within a community subject to the "base flood". This land is identified on the community's Flood Insurance Rate Map as Zone A, A1-30, AE, AH, AO, AR, and/or A99.

31. "Start of construction" includes substantial improvement, and means the date the development permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement, was within

180 days of the permit date. The actual start means either the first placement or permanent construction of a structure on a site, such as pouring of a slab or footings, the installation of pile, the construction of columns, or any work beyond the stage of excavation; or the placement of a factory-built home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of the building, whether or not that alteration affects the external dimensions of the building.

32. "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, grain storage facilities and/or other similar uses.

33. "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. Volunteer labor and donated materials shall be included in the estimated cost of repair. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred. Volunteer labor and donated materials shall be included in the estimated cost of repair.

34. "Substantial improvement" means any improvement to a structure which satisfies either of the following criteria:

A. Any repair, reconstruction or improvement of a structure taking place during a 10-year period, the cumulative cost of which, equals or exceeds fifty (50) percent of the market value of the structure either (i) before the "start of construction" of the first improvement of the structure, or (ii) if the structure has been "substantially damaged" and is being restored, before the damage occurred.

The term does not, however, include any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions. The term also does not include any alteration of an "historic structure", provided the alteration will not preclude the structure's designation as an "historic structure".

B. Any addition which increases the original floor area of a building by 25 percent or more. All additions constructed after the effective date of the first floodplain management regulations adopted by the community shall be added to any proposed addition in determining whether the total increase in original floor space would exceed 25 percent.

35. "Variance" means grant of relief by a community from the terms of the floodplain management regulations.

36. "Violation" means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations.

160.03 STATUTORY AUTHORITY, FINDINGS OF FACT AND PURPOSE.

1. The Legislature of the State of Iowa has in Chapter 414, *Code of Iowa*, as amended, delegated the power to cities to enact zoning regulations to secure safety from flood and to promote health and the general welfare.

2. Findings of Fact.

A. The flood hazard areas of the City of De Soto are subject to periodic inundation which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare of the community.

B. These flood losses, hazards, and related adverse effects are caused by: (i) The occupancy of flood hazard areas by uses vulnerable to flood damages which create hazardous conditions as a result of being inadequately elevated or otherwise protected from flooding and (ii) the cumulative effect of obstructions on the floodplain causing increases in flood heights and velocities.

160.04 GENERAL PROVISIONS.

1. Lands to Which Ordinance Apply. The provisions of this ordinance shall apply to all lands within the jurisdiction of the City of De Soto which are located within the boundaries of the Floodplain (Overlay) District as established in Section 160.06.

2. Rules for Interpretation of Floodplain (Overlay) District. The boundaries of the Floodplain (Overlay) District areas shall be determined by scaling distances on the official Flood Insurance Rate Map. When an interpretation is needed as to the exact location of a boundary, the Zoning Administrator shall make the necessary interpretation. The Board of Adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Zoning Administrator in the enforcement or administration of this ordinance.

3. Compliance. No structure or land shall hereafter be used and no structure shall be located, extended, converted or structurally altered without full compliance with the terms of this ordinance and other applicable regulations which apply to uses within the jurisdiction of this ordinance.

4. Abrogation and Greater Restrictions. It is not intended by this ordinance to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this ordinance imposes greater restrictions, the provision of this Ordinance shall prevail. All other ordinances inconsistent with this ordinance are hereby repealed to the extent of the inconsistency only.

5. Interpretation. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State statutes.

6. Warning and Disclaimer of Liability. The standards required by this ordinance are considered reasonable for regulatory purposes. This ordinance does not imply that areas outside the designated Floodplain (Overlay) District areas will be free from flooding or flood damages. This Ordinance shall not create liability on the part of the City of De Soto or any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

7. Severability. If any section, clause, provision or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

160.05 ADMINISTRATION.

1. Appointment, Duties and Responsibilities of Local Official.

A. The Zoning Administrator is hereby appointed to implement and administer the provisions of this ordinance and will herein be referred to as the Administrator.

B. Duties and responsibilities of the Administrator shall include, but not necessarily be limited to the following:

(1) Review all floodplain development permit applications to assure that the provisions of this ordinance will be satisfied.

(2) Review floodplain development applications to assure that all necessary permits have been obtained from federal, state and local governmental agencies including approval when required from the Department of Natural Resources for floodplain construction.

(3) Record and maintain a record of (i) the elevation (in relation to North American Vertical Datum 1988) of the lowest floor (including basement) of all new or substantially improved structures or (ii) the elevation to which new or substantially improved structures have been floodproofed.

(4) Notify adjacent communities/counties and the Department of Natural Resources prior to any proposed alteration or relocation of a watercourse and submit evidence of such notifications to the Federal Emergency Management Agency.

(5) Keep a record of all permits, appeals and such other transactions and correspondence pertaining to the administration of this ordinance.

(6) Submit to the Federal Insurance Administrator an annual report concerning the community's participation, utilizing the annual report form supplied by the Federal Insurance Administrator.

(7) Notify the Federal Insurance Administration of any annexations or modifications to the community's boundaries.

(8) Review subdivision proposals to insure such proposals are consistent with the purpose of this ordinance and advise the Board of Adjustment of potential conflict.

(9) Maintain the accuracy of the community's Flood Insurance Rate Maps when;

a. Development placed within the Floodway (Overlay) District results in any of the following: (i) An increase in the Base Flood Elevations, or (ii) Alteration to the floodway boundary.

b. Development placed in Zones A, AE, AH, and A1-30 that does not include a designated floodway that will cause a rise of more than one foot in the base elevation; or

c. Development relocates or alters the channel.

Within 6 months of the completion of the development, the applicant shall submit to FEMA all scientific and technical data necessary for a Letter of Map Revision.

(10) Perform site inspections to ensure compliance with the standards of this ordinance.

(11) Forward all requests for Variances to the Board of Adjustment for consideration. Ensure all requests include the information ordinarily submitted with applications as well as any additional information deemed necessary to the Board of Adjustment.

2. Floodplain Development Permit.

A. Permit Required. A Floodplain Development Permit issued by the Administrator shall be secured prior to any floodplain development (any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, filling, grading, paving, excavation or drilling operations), including the placement of factory-built homes.

B. Application for Permit. Application shall be made on forms furnished by the Administrator and shall include the following:

(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, track, street address or similar description) that will readily identify and locate the work to be done.

(3) Location and dimensions of all buildings and building additions.

(4) Indication of the use or occupancy for which the proposed work is intended.

(5) Elevation of the base flood.

(6) Elevation (in relation to North American Vertical Datum) of the lowest floor (including basement) of buildings or of the level to which a building is to be floodproofed.

(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 (e.g., drawings or a site plan) for the purpose of this ordinance.

C. Action on Permit Application. The Administrator shall, within a reasonable time, make a determination as to whether the proposed floodplain development meets the applicable standards of this Ordinance and shall approve or disapprove the application. For disapprovals, the applicant shall be informed, in writing, of the specific reasons therefore. The Administrator shall not issue permits for variances except as directed by the County Board of Adjustment.

D. Construction and Use to be as Provided in Application and Plans. Floodplain Development Permits based on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this ordinance. The applicant shall be required to submit certification by a professional engineer or land surveyor, as appropriate, registered in the State of Iowa, that the finished fill, building floor elevations, floodproofing, or other flood protection measures were accomplished in compliance with the provisions of this ordinance, prior to the use or occupancy of any structure.

160.06 ESTABLISHMENT OF FLOODPLAIN (OVERLAY) DISTRICT. The areas within the jurisdiction of the City of De Soto having special flood hazards are hereby designated as a Floodplain (Overlay) District and shall be subject to the standards of the Floodplain (Overlay) District (as well as those for the underlying zoning district). The Floodplain (Overlay) District boundaries shall be as shown on the Flood Insurance Rate Map (FIRM) for Dallas County and Incorporated Areas, City of De Soto, Panels 19049C0320F, 0340F, dated December 7, 2018.

160.07 STANDARDS FOR FLOODPLAIN (OVERLAY) DISTRICT. All uses must be consistent with the need to minimize flood damage and meet the following applicable performance standards. Where base flood elevations and floodway data have not been provided on the Flood Insurance Rate Map, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determination.

1. All development within the Floodplain (Overlay) 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.

D. Obtain all other necessary permits from federal, State and local governmental agencies including approval when required from the Iowa Department of Natural Resources.

2. Residential structures. All new or substantially improved residential structures shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevations. Construction shall be upon compacted fill which shall, at all points, be no lower than 1.0 ft. above the base flood elevations and extend at such elevation at least 18 feet beyond the limits of any structure erected thereon. Alternate methods of elevating (such as piers or extended foundations) may be allowed subject to favorable consideration by the Board of Adjustment, where existing topography, street grades, or other factors preclude elevating by fill. In such cases, the methods used must be adequate to support the structure as well as withstand the various forces and hazards associated with flooding.

All new residential structures located in areas that would become isolated due to flooding of surrounding ground shall be provided with a means of access that will be passable by wheeled vehicles during the base flood. However, this criterion shall not apply where the Administrator determines there is sufficient flood warning time for the protection of life and property. When estimating flood warning time, consideration shall be given to the criteria listed in 567-75.2(3), Iowa Administrative Code.

3. Non-residential structures. All new or substantially improved non-residential structures shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the base flood elevation, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the base flood; and that the structure, below the base flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the 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, with positioning on at least two (2) walls, having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) The bottom of all openings shall be no higher than one foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided they permit the automatic entry and exit of floodwaters.

a. Such areas shall be used solely for parking of vehicles, building access and low damage potential storage.

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 shall be constructed with electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities (including ductwork) elevated or floodproofed to a minimum of one (1) foot above the base flood elevation.

5. Factory-built homes.

A. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be elevated on a permanent foundation such that the lowest floor of the structure is a minimum of one (1) foot above the 100-year flood level.

B. All new and substantially improved factory-built homes, including those placed in existing factory-built home parks or subdivisions, shall be anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. Anchorage systems may include, but are not limited to, use of over-the-top or frame ties to ground anchors as required by the State Building Code.

6. Utility and Sanitary Systems.

A. On-site wastewater disposal and water supply systems shall be located or designed to avoid impairment to the system or contamination from the system during flooding.

B. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system as well as the discharge of effluent into flood waters. Wastewater treatment facilities (other than on-site systems) shall be provided with a level of flood protection equal to or greater than one (1) foot above the 100-year flood elevation.

C. New or replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Water supply treatment facilities (other than on-site systems) shall be provided with a level of protection equal to or greater than one (1) foot above the 100-year flood elevation.

D. Utilities such as gas or electrical systems shall be located and constructed to minimize or eliminate flood damage to the system and the risk associated with such flood damaged or impaired systems.

7. 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 base flood elevation. Other material and equipment must either be similarly elevated or (i) not be subject to major flood damage and be anchored to prevent movement due to flood waters or (ii) be readily removable from the area within the time available after flood warning.

8. Flood control structural works such as levees, flood walls, etc. shall provide, at a minimum, protection from the base flood with a minimum of 3 ft. of design freeboard and shall provide for adequate interior drainage. In addition, structural flood control works shall be approved by the Department of Natural Resources.

9. Watercourse alterations or relocations must be designed to maintain the flood carrying capacity within the altered or relocated portion. In addition, such alterations or relocations must be approved by the Department of Natural Resources.

10. Subdivisions (including factory-built home parks and subdivisions) shall be consistent with the need to minimize flood damages and shall have adequate drainage provided to reduce exposure to flood damage. Development associated with subdivision proposals (including the installation of public utilities) shall meet the applicable performance standards of this ordinance. Subdivision proposals intended for residential use shall provide all lots with a means of access which will be passable by wheeled vehicles during the base flood. Proposals for subdivisions greater than five (5) acres or fifty (50) lots (whichever is less) shall include 100-year flood elevation data for those areas located within the Floodplain (Overlay) District.

11. Accessory Structures to Residential Uses.

A. Detached garages, sheds, and similar structures that are incidental to a residential use are exempt from the base flood elevation requirements where the following criteria are satisfied.

(1) The structure shall be designed to have low flood damage potential. Its size shall not exceed 600 sq. ft. in size. Those portions of the structure located less than 1 foot above the BFE must be constructed of flood-resistant materials.

(2) The structure shall be used solely for low flood damage potential purposes such as vehicle parking and limited storage. The structure shall not be used for human habitation.

(3) The structure shall be constructed and placed on the building site so as to offer minimum resistance to the flow of floodwaters.

(4) The structure shall be firmly anchored to resist flotation, collapse and lateral movement.

(5) The structure's service facilities such as electrical and heating equipment shall be elevated or floodproofed to at least one foot above the base flood elevation.

(6) The structure's walls shall include openings that satisfy the provisions of Section 160.07(D)(1) of this ordinance.

Exemption from the 100-year flood elevation requirements for such a structure may result in increased premium rates for flood insurance coverage of the structure and its contents.

12. Recreational Vehicles.

A. Recreational vehicles are exempt from the requirements of Section 160.07(E) 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 Section 160.07(E) of this ordinance regarding anchoring and elevation of factory-built homes.

13. Pipeline river and stream crossings shall be buried in the streambed and banks, or otherwise sufficiently protected to prevent rupture due to channel degradation and meandering.

14. Maximum Damage Potential Uses. All new or substantially improved maximum damage potential uses shall have the lowest floor (including basement) elevated a minimum of one (1) foot above the elevation of the 500-year flood, or together with attendant utility and sanitary systems, be floodproofed to such a level. When floodproofing is utilized, a professional engineer registered in the State of Iowa shall certify that the floodproofing methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the 0.2% annual chance flood; and that the structure, below the 0.2% annual chance flood elevation is watertight with walls substantially impermeable to the passage of water. A record of the certification indicating the specific elevation (in relation to North American Vertical Datum 1988) to which any structures are floodproofed shall be maintained by the Administrator. Where 0.2% chance flood elevation data has not been provided in the Flood Insurance Study, the Iowa Department of Natural Resources shall be contacted to compute such data. The applicant will be responsible for providing the Department of Natural Resources with sufficient technical information to make such determinations.

160.08 ESTABLISHMENT OF VARIANCE PROCEDURES.

1. The Board of Adjustment may authorize upon request in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will result in unnecessary hardship. Variances granted must meet the following applicable standards.

A. Variances shall only be granted upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of the variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local codes or ordinances.

B. Variances shall only be granted upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

C. In cases where the variance involves a lower level of flood protection for buildings than what is ordinarily required by this Ordinance, the applicant shall be notified in writing over the signature of the Administrator that: (i) the issuance of a variance will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage and (ii) such construction increases risks to life and property.

2. Factors Upon Which the Decision of the Board of Adjustment Shall be Based. In passing upon applications for Variances, the Board shall consider all relevant factors specified in other sections of this ordinance and:

A. The danger to life and property due to increased flood heights or velocities caused by encroachments.

B. The danger that materials may be swept on to other land or downstream to the injury of others.

C. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination and unsanitary conditions.

D. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

E. The importance of the services provided by the proposed facility to the County.

F. The requirements of the facility for a floodplain location.

G. The availability of alternative locations not subject to flooding for the proposed use.

H. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

I. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

J. j. The safety of access to the property in times of flood for ordinary and emergency vehicles.

K. The expected heights, velocity, duration, rate of rise and sediment transport of the flood water expected at the site.

L. The cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities (sewer, gas, electrical and water systems), facilities, streets and bridges.

M. Such other factors which are relevant to the purpose of this Ordinance.

3. Conditions Attached to Variances. Upon consideration of the factors listed above, the Board of Adjustment may attach such conditions to the granting of variances as it deems necessary to further the purpose of this Ordinance. Such conditions may include, but not necessarily be limited to:

A. Modification of waste disposal and water supply facilities.

B. Limitation of periods of use and operation.

C. Imposition of operational controls, sureties, and deed restrictions.

D. Requirements for construction of channel modifications, dikes, levees, and other protective measures, provided such are approved by the Department of Natural Resources and are deemed the only practical alternative to achieving the purpose of this ordinance.

E. Floodproofing measures.

160.09 NONCONFORMING USES.

1. A structure or the use of a structure or premises which was lawful before the passage or amendment of this ordinance, but which is not in conformity with the provisions of this ordinance, may be continued subject to the following conditions:

A. If such use is discontinued for six (6) consecutive months, any future use of the building premises shall conform to this ordinance.

B. Uses or adjuncts thereof that are or become nuisances shall not be entitled to continue as nonconforming uses.

2. If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred, unless it is reconstructed in conformity with the provisions of this ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, provided that the alteration shall not preclude its continued designation.

160.10 PENALTIES FOR VIOLATION. Violations of the provisions of this ordinance or failure to comply with any of the requirements shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars ($500.00) or imprisoned for not more than thirty (30) days. Nothing herein contained prevent the City of De Soto from taking such other lawful action as is necessary to prevent or remedy violation.

160.11 AMENDMENTS. The regulations and standards set forth in this ordinance may from time to time be amended, supplemented, changed, or repealed. No amendment, supplement, change, or modification shall be undertaken without prior approval of the Department of Natural Resources.

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CHAPTER 165

ZONING REGULATIONS

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165.01 TITLE. This chapter shall be known and may be cited and referred to as the "Zoning Ordinance of the City of De Soto, Iowa," and referred to herein as the "Zoning Ordinance."

165.02 INTERPRETATION OF STANDARDS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements. Where this Zoning Ordinance imposes a greater restriction than is imposed or required by other provisions of law or by other rules or regulations or ordinances, the provisions of this chapter shall control. If any other statute, ordinance or regulation imposes higher standards than are required by this chapter, such statute, ordinance or regulation shall control. Any regulation adopted under the authority of this chapter which relates to a structure, building, dam, obstruction, deposit or excavation in or on the flood plains of a river or stream shall require prior approval of the Iowa Department of Natural Resources and the U.S. Army Corps of Engineers to establish, amend, supplement, change or modify such regulation or to grant a variation or exception from it.

165.03 DEFINITIONS. For the purpose of this chapter, the following terms and words are defined. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied," and the word "lot" includes the words "plot or parcel."

1. "Accessory use or structure" means a use or structure subordinate to the principal use of another building on the lot or site with, and serving a purpose customarily incidental to, the use of the principal building.

2. "Adult" means a person who has attained the age of eighteen years.

3. "Adult entertainment business" means a business which as a part of or in the process of delivering goods and services displays to its patrons specified sexual activities or specified anatomical areas in printed form or through any form of photographic medium or by use of male or female models. In reference to the above, the following definitions shall apply:

A. "Specified sexual activities" means any sexual contact, actual or simulated, either natural or deviate, between two or more persons, or between a person and an animal, by penetration of the penis into the vagina or anus, or by contact between the mouth or tongue and genitalia or anus, or by contact between a finger of one person and the genitalia of another person or by use of artificial sexual organs or substitute therefor in contact with the genitalia or anus.

B. "Specified anatomical areas" includes the following: human genitals, pubic region, buttocks, and female breasts below a point immediately above the top of the areola.

C. "Substantial" means more than twenty-five percent (25%) of the book, magazine, film or video tape inventory is distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

D. "Adult art or adult modeling studio" means an establishment or business which provides the services of modeling for the purpose of viewing and/or reproducing the human body wholly or partially in the nude by means of photography, painting, sketching, drawing or otherwise, provided that entrance to such establishment and such services are available only to adults.

E. "Adult artist – body painting studio" means an establishment or business which provides the services of applying paint or other substance, whether transparent or nontransparent, to or on the human body when such body is wholly or partially nude, provided that entrance to such establishment and such services are available only to adults.

F. "Adult bath house" means an establishment or business which provides the services of baths of all kinds, including all forms and methods of hydrotherapy, provided that entrance to such establishment and such services are available only to adults, and not including such services provided by a medical practitioner or professional physical therapist licensed by the State of Iowa.

G. "Adult book store" means an establishment or business having a substantial part of its stock in trade, books, magazines, photographs, pictures and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein and limited in sale of such sexual materials to adults.

H. "Adult cabaret" means a cabaret which features go-go dancers, exotic dancers, strippers, male or female impersonators, or similar entertainers.

I. "Adult motel" means a motel wherein material is presented which is distinguished or characterized by an emphasis on depicting or describing "specified sexual activities" or "specified anatomical areas."

J. "Adult motion picture arcade" means any place to which the public is permitted or invited wherein coin- or slug-operated, or electronically, electrically or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the

images so displayed are distinguished or characterized by an emphasis on matter depicting or describing "specified sexual activities" or "specified anatomical areas."

K. "Adult motion picture theater" means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting or describing "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

L. "Adult mini motion picture theater" means an enclosed building with a capacity for less than 50 persons used for presenting motion pictures, slides or photographic reproductions distinguished or characterized by an emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" as defined herein for observation by patrons therein.

M. "Massage" means any method of treating the external parts of the human body by rubbing, stroking, kneading, tapping or vibrating with the hand, other parts of the body, or any instrument, for any consideration or gratuity.

N. "Massage establishment" means any establishment having a fixed place of business where massages are administered for any form of consideration or gratuity, including but not limited to massage parlors, health clubs, sauna baths, and steam baths. This definition shall not be construed to include an establishment employing: (i) persons licensed by the State of Iowa under the provisions of Chapters 148, 148A, 148B, 148C, 149, 150, 150A, 151, 152, 152B, 152C, 157 or 158 of the Iowa Code, when performing massage services as a part of the profession or trade for which licensed; (ii) persons performing massage therapy or massage services under the direction of a person licensed as described in (i) above; (iii) persons performing massage therapy or massage services upon a person pursuant to the written instruction or order of a licensed physician; (iv) nurses, aides, technicians and attendants at any hospital or health care facility licensed pursuant to Chapter 135B, 135C or 145A of the Iowa Code, in the course of their employment and under the supervision of the administrator thereof or of a person licensed as described in (i) above; (v) an athletic coach or trainer: (a) in any accredited public or private secondary school, junior college, college or university, or (b) employed by a professional or semi-professional athletic team or organization, in the course of his or her employment as such coach or trainer. This definition shall not be construed to include a volunteer fire department, a volunteer rescue squad or a nonprofit organization operating a community center, swimming pool, tennis court, or other educational, cultural, or recreational and athletic facilities, and facilities for the welfare of the residents of the area.

O. "Model studio" means any establishment where for any form of consideration or gratuity, models who display specified anatomical areas are provided to be observed, or subject to lawful tactile conduct, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons paying such consideration or gratuity, or where for any form of consideration or gratuity, nude or semi-nude dancing, readings, counseling sessions, body painting and other activities that present materials distinguished or

characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas are provided for observation by or communication to persons paying such consideration or gratuity.

P. "Model" means any person who for consideration or gratuity appears either nude or semi-nude to be either viewed, photographed, sketched, drawn, sculptured; to dance; to provide reading or counseling sessions; for body painting; to deliver a service or in connection with the sale of merchandise; or to present materials distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

Q. "Nude encounter parlor" means an establishment having a fixed place of business where any person, therein engages in, conducts, or carries on, or permits to be engaged in, conducted or carried on, any business of viewing any person or persons or the actual encounter of any person or persons depicting, describing or relating to "specified sexual activities" as defined herein.

R. "Nude photographic parlor" means an establishment having a fixed place of business, where any person, association, firm or corporation therein engages in, conducts, or carries on, or permits to be engaged in, conducted or carried on any business of photographing any person or persons depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," as defined herein.

4. "ADM Public School District" means the Adel, De Soto, Minburn Public School District.

5. "Agriculture" means the use of land for purposes of growing the usual farm products, including vegetables, fruit, trees and grains; pasturage; dairying; animal and poultry husbandry; and the necessary accessory uses for treating or storing the produce; provided that the operation of such accessory uses is secondary to that of the regular agricultural activities.

6. "Alley" means a public way, other than a street, twenty (20) feet or less in width affording secondary means of access to abutting property.

7. "Automobile wrecking" means the dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled or wrecked vehicles or their parts. The presence on any lot, parcel or tract of land, of three (3) or more vehicles which for a period exceeding thirty (30) days have not been capable of operating under their own power, and from which parts have been removed or are to be removed for reuse, salvage, or sale, shall constitute prima facie evidence of an automobile wrecking yard.

8. "Basement" means a story having part but not more than one-half (½) of its height below grade. A basement is counted as a story for the purpose of height regulation.

9. "Bed and breakfast home" means a private residence which provides lodging and meals for guests, in which the host and/or hostess resides and in which no more than two guest families are lodged at the same time and which, while it may advertise

and accept reservations, does not hold itself out to the public to be a restaurant, hotel or motel, does not require reservations and serves food only to overnight guests.

10. "Board" means the Board of Adjustment of the City of De Soto.

11. "Boarding house" means a building other than a hotel or motel where, for compensation, meals or lodging and meals are provided for four (4) or more persons.

12. "Buffer zone" means an area of land used to visibly separate one use from another or to shield or block noise, lights or other nuisances.

13. "Building" means any structure designed or intended for the support, enclosure, shelter or protection of persons, animals or property, but not including signs or billboards.

14. "Building, height of" means the vertical distance from the average finished grade at the building line to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitch or hip roof.

15. "Building line" means the outer boundary of a building established by the location of its exterior walls or any projections other than steps, unenclosed balconies or unenclosed porches.

16. "Bulk stations" means distributing stations, commonly known as bulk or tank stations, used for the storage and distribution of flammable liquids or liquefied petroleum products, where the aggregate capacity of all storage tanks is more than twelve thousand (12,000) gallons.

17. "Carport" means a roofed structure providing space for the parking of motor vehicles and enclosed on not more than two (2) sides. For the purpose of this chapter, a carport attached to a principal building is considered as part of the principal building and subject to all yard requirements herein.

18. "Cellar" means that portion of a building having more than one-half (½) of its height below grade. A cellar is not included in computing the number of stories for the purpose of height measurement.

19. "Clinic, medical or dental" means a building or buildings in which physicians, dentists, or physicians and dentists, and allied professionals, are associated for the purpose of carrying on their profession.

20. "Commission" means the Planning and Zoning Commission of the City of De Soto.

21. "Convenience store" means establishment primarily engaged in the retail sale of food, household and entertainment products for home consumption including sale of vehicle fuel.

22. "Day nursery" or "nursery school" means any private or public agency, institution, establishment or place which provides supplemental parental care and/or educational work, other than lodging overnight, for six (6) or more unrelated children of the owners or operators, of pre-school age, for compensation.

23. "District" means a section or sections of the City of De Soto within which the regulations governing the use of buildings and premises or the height and area of buildings and premises are uniform.

24. "Driveway" means a permanently surfaced area providing vehicular access between a street and an off-street parking or loading area.

25. "Dwelling" means any stationary, permanent building, or portion thereof, which is designed or used exclusively for residential purposes, but not including a tent, cabin, trailer or mobile home.

26. "Dwelling, single-family, split foyer" means a dwelling in which living space is on two levels with a foyer between the two levels.

27. "Dwelling, single-family, split level" means a dwelling having living space on three or more levels no part of which is more than two stories in height, and in which each successive level is less than a full story higher than the next.

28. "Dwelling, single-family" means a detached residence designed for or occupied by one family only.

29. "Dwelling, two-family" means a residence designed for or occupied by two (2) families only, with separate housekeeping, bathroom and cooking facilities for each.

30. "Dwelling, multiple" means a residence designed for or occupied by three (3) or more families, with separate housekeeping, bathroom and cooking facilities for each.

31. "Dwelling, condominium" means a multiple dwelling as defined herein whereby the title to each dwelling unit is held in separate ownership, and the real estate on which the units are located is held in common ownership solely by the owners of the units with each owner having an undivided interest in the common real estate.

32. "Dwelling, row" means any one of three or more attached dwellings in a continuous row, each such dwelling designed and erected as a unit on a separate lot and separated from one another by an approved wall or walls. A row dwelling is also referred to as a "townhouse."

33. "Dwelling unit" means a room or group of rooms which are arranged, designed or used as living quarters for the occupancy of one family containing bathroom and kitchen facilities.

34. "Family" means one or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over four (4) persons.

35. "Feed lot" means any parcel of land or premises on which the principal use is the concentrated feeding within a confined area of livestock. Livestock includes cattle, horses, sheep, swine, poultry, goats, rabbits, and any other animal or fowl which are being produced primarily for use as food or food products for human consumption, or for laboratory or testing purposes. The feed lot does not include areas which are used for the raising of crops or other vegetation, and upon which livestock are allowed to graze or feed.

36. "Fences, walls and hedges" means decorative and/or enclosing devices used along boundary lines of lots. Fences, walls and hedges may be constructed up to the lot line in accordance with the height rules set out in this chapter.

37. "Garage, private" means an accessory building or an accessory portion of the main building, designed and/or used for the shelter or storage of vehicles owned or

operated by the occupants of the principal building. A private garage, of less than four-car capacity, may be rented for the private vehicles of persons not resident on the premises.

38. "Garage, public" means a structure other than a private garage, used for the shelter or storage of motor powered vehicles and in which the care, minor servicing and washing are accessory to the principal use.

39. "Gas station" means a structure designed or used for the retail and/or wholesale sale or supply of fuels, lubricants, air, water, washing and polishing services, and other operating commodities or accessories for motor vehicles and including the customary space and facilities for the installation of such commodities or accessories on or in such vehicles, but not including space or facilities for the storage, painting, major repair, refinishing, body work or other major servicing of motor vehicles. Major repairs are defined to be spray painting, body, fender, clutch, transmission, differential, axle, spring and frame repairs; major overhauling of engines requiring the removal of engine cylinder head or crankcase pan; repairs to radiators requiring the removal thereof; or complete recapping or re-treading of tires.

40. "Grade" means the average elevation of the finished ground at the exterior walls of structure.

41. "Home occupation" means a business, profession, occupation or trade conducted for gain or support entirely within a residential building, or a structure accessory thereto, which is incidental and secondary to the use of such building for dwelling purposes and which does not change the essential residential character of such building.

42. "Hotel/motel" means a building or buildings 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 rooming house.

43. "Junk" means old and dilapidated automobiles, trucks, tractors, and other such vehicles and parts thereof, wagons and other kinds of vehicles and parts thereof, scrap, used building material, scrap contractor's equipment, tanks, casks, cans, barrels, boxes, drums, piping, bottles, glass, old iron, machinery, rags, paper, excelsior, hair, mattresses, beds, or bedding or any other kind of scrap or waste material which is stored, kept, handled, or displayed for barter, resale, reuse, salvage, stripping, or trade.

44. "Junk yard" means any area where junk is bought, sold, exchanged, baled or packed, disassembled or handled, including house wrecking yards, used lumber yards and places or yards for storage of salvaged house wrecking or structural steel materials and equipment; but not including areas where such uses are conducted entirely within a completely enclosed building, and not including the processing of used, discarded or salvaged materials necessary as a part of manufacturing operations. The presence on any property of four (4) or more motor vehicles (as defined by Chapter 321.1 of the Code of Iowa) without current registration which for a period exceeding thirty (30) days have not been capable of operating under their own power, and/or from which parts have been removed for re-use, salvage, or sale, shall constitute prima facie evidence of a junk yard.

45. "Kennel" means the keeping of any dogs, cats, or other household pets of mammal group regardless of number, for sale, breeding, boarding or treatment purposes, except in an animal hospital, veterinary clinic, or pet shop, as may be permitted by law, or the keeping of more than one dog or cat on vacant property or on

property used for business or commercial purposes. The keeping of not more than three (3) dogs and three (3) cats in a residential district is not deemed to be a kennel, unless kept for sale, breeding, boarding or treatment purposes. Any person keeping more than three dogs and three cats in a residential district on the effective date of the Zoning Ordinances registered as required by ordinance, may continue to keep such dogs or cats during the pet's lifetime.

46. "Living space" means that part of the building which is enclosed and supported upon the main foundation system of the structure excluding garage and cellar.

47. "Lodging or rooming house" means a building where a room or rooms are provided for compensation for four (4) or more persons.

48. "Lot" means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on an improved public street, or on an approved private street, and may consist of:

A. A single lot of record;

B. A portion of a lot of record;

C. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record; or

D. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this chapter.

49. "Lot, corner" means a lot abutting upon two (2) or more streets at their intersection.

50. "Lot, depth" means the mean horizontal distance between the front and rear lot lines.

51. "Lot, double frontage" means a lot having a frontage on two (2) nonintersecting streets, as distinguished from a corner lot.

52. "Lot, interior" means a lot other than a corner lot.

53. "Lot lines" means the lines bounding a lot, including the right-of-way line of any public road, highway or alley acquired by easement.

54. "Lot of record" means a lot which is part of a subdivision, or a plat of survey, the deed of which is recorded in the office of the County Recorder of Dallas County, or a lot or parcel described by metes and bounds, the description of which has been so recorded.

55. "Lot width" means the width of a lot measured at the building line and at right angles to its depth.

56. "Lot, reversed frontage" means a corner lot, the side street line of which is substantially a continuation of the front lot line of the first platted lot to its rear.

57. "Manufactured home" means a factory-built single-family structure, which is manufactured or constructed under the authority of 42 U.S.C. Sec. 5403, *Federal Manufactured Home Construction and Safety Standards*, and is to be used as a place for human habitation, but which is not constructed with a permanent hitch or other

device allowing it to be moved other than for the purpose of moving to a permanent site, and which does not have permanently attached to its body or frame any wheels or axles. A mobile home is not a manufactured home. For the purpose of these regulations, a manufactured home is considered the same as any site built single-family detached dwelling.

58. "Mini-warehouse" means a building or group of buildings not more than one (1) story and twenty (20) feet in height and not having any other dimension greater than one hundred fifty (150) feet per building, containing varying sizes of individualized, compartmentalized and controlled stalls or lockers for the dead storage of customers' goods or wares, excluding junk, explosive, or flammable materials, and other noxious or dangerous materials, including if any, caretaker or supervisor's quarters as an accessory use. No business activities other than rental of storage units shall be conducted on the premises.

59. "Mobile home" means any vehicle without motive power used or so manufactured or constructed as to permit its being used as a conveyance upon the public streets or highways and so designed, constructed, or reconstructed as will permit the vehicle to be used as a place for human habitation by one or more persons; but shall also include any such vehicle with motive power not registered as a motor vehicle in Iowa. A mobile home is factory-built housing built on a chassis. A mobile home shall not be construed to be a travel trailer or other form of recreational vehicle. A mobile home shall be construed to remain a mobile home, subject to all regulations applying thereto, whether or not wheels, axles, hitch, or other appurtenances of mobility are removed and regardless of the nature of the foundation provided. Nothing in this chapter shall be construed as permitting a mobile home in other than an approved mobile home park.

60. "Mobile home park" means any lot or portion of a lot upon which one (1) or more trailers or mobile homes, occupied for dwelling or sleeping purposes, are located regardless of whether or not a charge is made for such accommodation.

61. "Modular home" means factory-built housing certified as meeting the State Building Code and federal requirements as applicable to modular housing. Once certified, modular homes shall be subject to the same standards as site built homes.

62. "Motel motor lodge" means a building or a group of attached or detached buildings containing individual sleeping or living units for overnight tourists, with garage attached or parking facilities conveniently located to each such unit.

63. "Nonprofit institution" means a nonprofit establishment maintained and operated by a society, corporation, individual, foundation or public agency for the purpose of providing charitable, social, educational, or similar services to the public, groups, or individuals. Cooperative nonprofit associations, performing a service normally associated with retail sales or trade such as cooperative groceries, granaries, equipment sales, etc., shall not be considered a nonprofit institution under this chapter.

64. "Nonconforming use" means use of a building or of land that does not conform to the regulations as to use for the district in which it is situated.

65. "Nursing or convalescent home" means a building or structure having accommodations and where care is provided for three or more invalid, infirm, aged, convalescent or physically or mentally disabled or injured persons.

66. "Parabolic or dish-type antenna" means a concave, circular or dish-shaped device designed for receiving communications or television signals from a satellite.

67. "Parking space (off-street)" means a permanently surfaced area of not less than one hundred seventy-one (171) square feet (9 feet x 19 feet) plus necessary maneuvering space for the parking of a motor vehicle. Space for maneuvering, incidental to parking or unparking, shall not encroach upon any public right-of-way.

68. "Porch, unenclosed" means a roofed projection which has no more than fifty percent (50%) of each outside wall area permanently enclosed by a building or siding material other than meshed screens.

69. "Principal building" means any structure designed and used, or intended to be used, for one of the "principal permitted uses" listed in each of the zoning districts as set out in this chapter.

70. "Principal use" means the main use of land or structures as distinguished from an accessory use.

71. "Restaurant" means an establishment which principally is engaged in the preparation and retail sale of food and beverages, including the sale of alcoholic beverages when conducted as a secondary feature of the use, producing less than 50% of the establishment's gross income.

72. "Rooming house" means a building where a room or rooms are provided for compensation to four (4) or more persons.

73. "Story" means that portion of a building included between the surface of any floor and the surface of the floor next above it. If there is no floor above it, then the space between such floor and the ceiling or roof next above it is considered a story.

74. "Story, half" means a space under a sloping roof which has the line of intersection of roof decking and exterior wall face not more than four (4) feet above the top floor level.

75. "Street line" means the right-of-way line of a street, alley or road.

76. "Street or road, private" means any private right-of-way twenty (20) feet or more in width which shall be approved by the City Council after recommendation by the Commission.

77. "Street or road, public" means any thoroughfare or public way not less than twenty (20) feet in width, which has been dedicated to the public or deeded to or acquired by the City or County for street purposes; and also any such public way as may be created after enactment of the Zoning Ordinance, provided it is fifty (50) feet or more in width.

78. "Structural alterations" means any replacement or change in the type of construction or in the shape or size of a building or of the supporting members of a building or structure such as bearing walls, columns, beams, arches, girders, floor joist, or roof trusses, beyond ordinary repairs and maintenance.

79. "Structure" means anything constructed or erected with a rigid or fixed location on the ground, or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences (more than six feet in height), billboards, solar collectors and dish antennae.

80. "Trailer park" - see "mobile home park."

81. "Travel trailer" means a recreational vehicle, with or without motive power; designed as a temporary dwelling, not exceeding eight (8) feet in width and forty (40) feet in length, exclusive of separate towing unit. The term "travel trailer" includes pickup coach, motor home, camp trailer, tent trailer, or other similar mobile and temporary dwellings commonly used for travel, recreation or vacation quarters.

82. "Travel trailer park" means a parcel of land upon which two (2) or more spaces are provided, occupied or intended for occupancy by travel trailers for transient purposes.

83. "Vehicle, antique" means a motor vehicle twenty-five (25) years old or older, as provided and regulated by Section 321.115, Code of Iowa.

84. "Vehicle, motor" means a self-propelled device used for transportation of people or goods over land surfaces and licensed as a motor vehicle.

85. "Vehicle, inoperable" means any motor vehicle which lacks current registration or two or more wheels or other component parts the absence of which renders the vehicle unfit for legal use on streets.

86. "Yard" means an open space on the same lot with a building or structure unoccupied and unobstructed by any portion of a structure from thirty-six (36) inches above the general ground level of the graded lot upward, except as may be provided by other sections of this chapter. In measuring a yard for the purpose of determining the depth of a front yard or the depth of a rear yard, the least distance between the lot line and the main building shall be used. In measuring a yard for the purpose of determining the width of a side yard, the least distance between the lot line and the nearest permitted building shall be used except that in no case shall any eave or overhang (or any other projection) extend into the said front, side or rear yard by more than 24 inches. If eaves or overhangs exceed 24 inches, then the building shall be set back into the permissible building area as necessary to eliminate any eaves or overhangs from extending more than 24 inches.

87. "Yard, front" means a yard extending across the full width of the lot and measured between the front lot line and the front of the building other than the projection of the usual steps or unenclosed porches. The narrow frontage on a corner lot is considered the front lot line regardless of where the building entrance is located. See "yard" for eave or overhang limitations.

88. "Yard, side" means a yard extending from the front yard to the rear yard and measured between the side lot lines and the building. See "yard" for eave or overhang limitations.

89. "Yard, rear" means a yard extending across the full width of the lot and measured between the rear lot line and the building other than steps, unenclosed balconies or unenclosed porches. An unenclosed balcony or porch is one in which 50% or less of the side walls of said balcony or porch are enclosed by screen, glass, or other material and includes a deck. On both corner lots and interior lots, rear yard is the opposite end of the lot from the front. See "yard" for eave and overhang limitations.

165.04 ESTABLISHMENT OF DISTRICTS; PROVISIONS FOR OFFICIAL ZONING MAP. For the purpose of this chapter, the following seventeen (17) classes of districts are hereby established within the City of De Soto as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this chapter.

A-1	Agricultural District
AR	Single-Family Acreage District
R-1	Single-Family Residential District
R-2	One- and Two-Family Residential District
R-3	Multi-Family Residential District
R-4	ROW Dwelling and Townhouse Dwelling District
R-5	Planned Unit Development District
R-6	Mobile Home Residential District
C-1	Community and Highway Service Commercial District
C-1A	Neighborhood Commercial District
C-2	Central Business District
C-3	Planned Commercial Development District
C-4	Office Park Commercial District
M-1	Light Industrial District
M-1A	Limited Industrial District
M-2	Heavy Industrial District
COS	Conservation and Open Space District

The Official Zoning Map is identified by the signature of the Mayor, attested by the City Clerk. If, in accordance with the provisions of this chapter and Chapter 414, Code of Iowa, changes are made in district boundaries or other matters portrayed in the Official Zoning Map, copies of such changes shall be filed with the Official Zoning Map promptly after the amendment has been approved by the City Council. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map, together with amending ordinances, shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the City. In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of use, the City Council may by resolution adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Zoning Ordinance or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) by the City of De Soto, Iowa."

165.05 RULES FOR INTERPRETATION OF DISTRICT BOUNDARIES. In cases where the exact location of a district boundary is not clear as shown on the Official Zoning Map, the following rules shall be used in determining the location of said district boundary:

1. Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow such centerlines.

2. Boundaries indicated as approximately following platted lines shall be construed as following such lot lines.

3. Boundaries indicated as approximately following corporate limits shall be construed as following corporate limits.

4. Boundaries indicated as approximately following section lines, quarter section lines, or quarter-quarter section lines shall be construed as following such lines.

5. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks.

6. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of change in the shore line shall be construed as moving with the actual shore line; boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes, or other bodies of water shall be construed to follow such centerlines.

7. Boundaries indicated as parallel to or extensions of features indicated in subsections 1 through 6 above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map.

8. Where physical or cultural features existing on the ground are at variance with those shown on the Official Zoning Map, or in other circumstances not covered by subsections 1 through 6 above, the Board of Adjustment shall interpret the district boundaries.

165.06 APPLICATION OF DISTRICT REGULATIONS. The regulations set forth by this chapter within each district shall be minimum regulations and shall apply uniformly to each class or kind or structure or land, and particularly, except as hereinafter provided.

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

2. No building or other structure shall hereafter be erected or altered:

A. To exceed the height;

B. To accommodate or house a greater number of families;

C. To occupy a greater percentage of lot area; or

D. To have narrower or smaller rear yards, front yards, side yards, or other open spaces

than herein required; or in any other manner contrary to the provisions of this chapter.

3. No part of a yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this chapter shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.

4. No yard or lot existing at the time of passage of the Zoning Ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of the Zoning Ordinance shall meet at least the minimum requirements established by this chapter.

165.07 NONCONFORMING USES. Within the various districts established by the Zoning Ordinance or amendments that may later be adopted, there exist structures and uses of land

and structures which were lawful prior to the adoption of the Zoning Ordinance but which would be prohibited, regulated, or restricted under the provisions of this chapter. It is the intent of this chapter to permit these nonconformities to continue until they are removed, but not to encourage their survival. Such uses are declared by this chapter to be incompatible with permitted uses in the districts involved.

1. Nonconforming Use of Land in Residential Districts. The lawful use of land upon which no building or structure is erected or constructed which becomes nonconforming under the terms of the Zoning Ordinance as adopted or amended may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such nonconforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of the Zoning Ordinance.

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel which was not occupied by such use at the effective date of adoption or amendment of the Zoning Ordinance.

C. If any such nonconforming use of land ceases for any reason for a period of more than thirty (30) days, any subsequent use of such land shall conform to the district regulations for the district in which such land is located.

2. Nonconforming Use of Structures in Residential Districts. If a lawful use of a structure, or of a structure and land in combination, exists at the effective date of adoption or amendment of the Zoning Ordinance that would not be allowed in the district under the terms of this chapter, the use may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No existing structure devoted entirely or in part to a use not permitted by this chapter in the district in which it is located, except when required by law, shall be enlarged, extended, reconstructed, moved or structurally altered, unless the use is changed to a use permitted in the district in which such structure is located.

B. Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the Zoning Ordinance. No such use shall be extended to occupy any land outside such building.

C. If no structural alterations are made, a nonconforming use of a structure may be changed to another nonconforming use within the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted use or to a conforming use, such use shall not thereafter be changed to a less restrictive use.

D. In the event that a nonconforming use of a structure, or structure and land in combination, is discontinued or abandoned for a period of two (2) years, the use of the same shall thereafter conform to the uses permitted in the district in which it is located. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall eliminate the nonconforming status of the land.

E. Any structure devoted to a use made nonconforming by this chapter that is destroyed by any means to an extent of sixty percent (60%) or more of its assessed value cost at the time of destruction, exclusive of the foundations, shall not be reconstructed and used as before such happening. If the structure is less than 60% destroyed above the foundation, it may be reconstructed and used as before provided it is done within six (6) months of such happening, and built of like or similar materials.

3. Nonconforming Structures in Residential Districts. Where a structure exists at the effective date of adoption or amendment of the Zoning Ordinance that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity.

B. Should such structure be destroyed by any means to an extent of sixty percent (60%) or more of its assessed value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

4. Nonconforming Use of Land in Other than Residential Districts. The regulations described in subsection 165.07(1), shall also apply to this subsection.

5. Nonconforming Use of Structures in Other than Residential Districts. The regulations described in subsection 165.07(2) shall also apply to this subsection with the following exception: Any structure in any district other than a residential district devoted to a use made nonconforming by this chapter may be structurally altered or enlarged in conformity with the lot area, lot coverage, frontage, yard, height, and parking requirements of the district in which located, provided such construction shall be limited to buildings on land owned, of record, by the owner of the land devoted to the nonconforming use prior to the effective date of the Zoning Ordinance. Such structural alteration or enlargement shall not authorize the substitution of a nonconforming use that is less restrictive than the one to which the structure was devoted at the time of passage of the Zoning Ordinance.

6. Nonconforming Structures in Other than Residential Districts. The regulations described in subsection 165.07(3) shall also apply to this subsection.

7. Required Repairs and Unauthorized Nonconformities. Nothing in this chapter shall be deemed to prevent the restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Any use of land, use of structure, or structure, in existence at the time of adoption of the Zoning Ordinance which was not an authorized nonconformity under any previous zoning ordinance or similar regulations shall not be authorized to continue its nonconforming status pursuant to this chapter or amendments thereto.

165.08 GENERAL REGULATIONS.

1. Conformance Required. Except as hereinafter specified, no building, sign or structure shall be erected, converted, enlarged, reconstructed or structurally altered, nor shall any building or land be used, which does not comply with all of the district

regulations established by this chapter for the district in which the building or land is located.

2. Street Frontage Required. Except as permitted in Section 165.28 of this chapter, no lot shall contain any building used in whole or in part for single-family or two-family residence purposes unless such lot abuts for at least forty (40) feet on at least one public street.

3. Accessory Buildings. No accessory building shall be erected in any front yard. Accessory buildings shall be distanced at least five (5) feet from alley lines or easement lines, and five feet from the lot lines of adjoining lots which are in any "R" district, except the R-6 District, and on a corner lot they shall conform to the setback regulations on the side street; however, in no case shall any eave or overhang extend closer than twelve (12) inches to a rear or side yard line, or an easement line. Accessory buildings must be erected separately from and a minimum horizontal distance of six (6) feet from any building projection, and may not be connected by a breezeway or similar structure. If any unenclosed balcony or unenclosed porch including any deck shall be constructed within six feet from any accessory building the adjacent wall of said accessory building shall be not less than a two-hour fire wall. No unenclosed balcony or unenclosed porch or deck shall be constructed closer than three (3) feet to any accessory building. Any building so connected to the principal building shall be considered a part of the said principal building and must meet the space requirements thereof. An accessory building shall not occupy more than thirty percent (30%) of the rear yard except in an R-6 District, and shall not exceed fourteen (14) feet in height in any "R" District. This regulation shall not be interpreted to prohibit the construction of a 440-square foot garage on a minimum rear yard. 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 unless the main building on the lot is also being used.

4. Corner Lots. For corner lots, the front yard regulation shall apply to each street side of the corner lot.

5. Front Yard. In all residential districts there shall be a minimum front yard required as stated in the bulk regulations for that particular district; provided, however, where lots comprising thirty percent (30%) or more of the frontage within two hundred (200) feet of either side lot line are developed with buildings at a greater or lesser setback, the front yard requirement shall be the average of these building setbacks and the minimum front yard required for the undeveloped lots. In computing the average setback, buildings located on reverse corner lots or entirely on the rear half of lots shall not be counted. The required front yard as computed herein need not exceed fifty (50) feet in any case.

6. Required Yard Cannot Be Reduced. No yard or lot existing at the time of passage of the Zoning Ordinance shall be reduced in dimension or area below the minimum required by this chapter. No part of a yard or other open space, or off-street parking or loading space provided about any building, structure, or use for the purpose of complying with the provisions of this chapter shall be included as part of a yard, open space, or off-street parking or loading space required under this chapter for another building, structure, or use.

7. Permits Previously Issued. Nothing herein contained shall require any change in the overall layout, plans, construction, size or designated use of any building, or part thereof, for which approvals and required permits have been granted before the

enactment of the Zoning Ordinance, the construction of which in conformance with such plans shall have been started prior to the effective date of the Zoning Ordinance and completion thereof carried on in a normal manner and not discontinued for reasons other than those beyond the builder's control.

8. Zoning Districts Dividing Property. Where one parcel of property is divided into two or more portions by reason of different zoning district classifications, each of these portions shall be used independently of the other in its respective zoning classification, and for the purpose of applying the regulations of this chapter, each portion shall be considered as if in separate and different ownership.

9. Home Occupations. Subject to the limitations of this section, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any dwelling unit. Any question of whether a particular use is permitted as a home occupation, as provided herein, shall be determined by the administrative official pursuant to the provisions of this chapter. The regulations of this section are designed to protect and maintain the residential character of established neighborhoods while recognizing that certain professional and limited business activities have traditionally been carried on in the home. This section recognizes that, when properly limited and regulated, such activities can take place in a residential structure without changing the character of either the neighborhood or the structure.

A. Use Limitations. In addition to all of the use limitations applicable to the district in which it is located, no home occupation shall be permitted unless it complies with the following restrictions:

(1) Not more than one person who is not a resident on the premises shall be employed.

(2) No more than 50%, including storage area, of no more than one floor of the dwelling unit, shall be devoted to the home occupation.

(3) No alteration of the principal residential building shall be made which changes the character and appearance thereof as a dwelling.

(4) No stock of goods shall be displayed or sold on the premises in excess of storage area available as defined in subparagraph (2) above.

(5) The home occupation shall be conducted entirely within the principal dwelling unit, and in no event shall such use be apparent from any public way.

(6) There shall be no outdoor storage of equipment or materials used in the home occupation.

(7) Not more than two commercially licensed vehicles used in connection with any home occupation shall be parked on the property.

(8) No mechanical, electrical or other equipment which produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residence shall be permitted.

(9) No home occupation shall be permitted which is noxious, offensive or hazardous by reason of vehicular traffic, generation or emission of noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse, radiation or other harmful, objectionable emissions.

B. Home Occupations Permitted. Customary home occupations include, but are not limited to, the following list of occupations; provided, however, each such home occupation shall be subject to the use limitations set out in paragraph A of this subsection.

(1) Providing instruction to not more than four students at a time.

(2) Office facilities for accountants, architects, brokers, doctors, dentists, engineers, lawyers, insurance agents and real estate agents.

(3) Office facilities for ministers, priests and rabbis.

(4) Office facilities for salespersons, sales representatives and manufacturer's representatives when no retail or wholesale sales are made or transacted on the premises.

(5) Studio of an artist, photographer, craftsperson, writer or composer.

(6) Homebound employment of a physically, mentally or emotionally handicapped person who is unable to work away from home by reason of his or her disability.

(7) Shop of a beautician, barber, hair stylist, dressmaker or tailor.

(8) Bed and Breakfast establishments limited to not more than three guest rooms.

10. Prohibited Storage of Motor Vehicles. Outdoor storage of motor vehicles not currently licensed shall be prohibited in all zoning districts, except motor vehicles held for sale by a licensed motor vehicle dealer at the dealer's place of business in a zoning district where motor vehicle sales are permitted.

11. Parking and Storage. No person shall park, place, keep or store, or permit the parking or storage of a stock car, racing car, inoperable vehicle, vehicular component parts, or miscellaneous junk and debris on any public or private property unless it shall be in a completely enclosed building. This regulation shall not apply to legitimate businesses operating in a lawful place and manner provided, however, that such outside areas are screened from public view.

12. Visibility at Intersections in Residential Districts. On a corner lot in any residential district, nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half (2½) and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines twenty-five (25) feet from the point of intersection of right-of-way lines.

13. Fences, Walls and Hedges. Notwithstanding other provisions of this chapter, fences, walls, and hedges may be permitted in any required yard, or along the edge of any yard with the following provisions;

A. No fence, wall or hedge shall exceed four (4) feet in height along the street side yard of a corner lot within the area of the front yard extended of an abutting lot to the rear of said corner lot, unless located along building setback lines in which case the fence, wall, or hedge shall not exceed the height of six (6) feet.

B. Fences, walls and hedges in any district other than M-1, M-1A and M-2 Districts not exceeding six (6) feet in height are permitted within limits of side and rear yards.

C. In M-1, M-1A and M-2 Districts fences and walls shall not exceed a height of eight (8) feet.

(Subsection 13 – Ord. 333 – Oct. 18 Supp.)

14. Building Lines on Approved Plats. Whenever the plat of a land subdivision approved by the Commission and on record in the office of the County Recorder shows a building line along any frontage for the purpose of creating a front yard or side street yard line, the building line thus shown shall apply along such frontage in place of any other yard line required in this chapter unless specific yard requirements in this chapter require a greater setback. Building lines shall be measured to the foundation.

15. Signs. Certain signs shall be allowed on the condition they are adequately maintained and subject to a permit to be issued by the Council.

A. Real Estate Signs. Real estate signs are allowed in all districts.

B. Identification Signs. Identification signs are allowed in all districts.

C. On-Site Advertising Signs. On-site advertising signs are allowed in the Commercial and Industrial districts.

D. Off-Site Advertising Signs. Off-site advertising signs are allowed only as a special use.

E. Flashing Signs. No rotating beacon, beam or flashing, intermittent or moving lights shall be allowed in connection with any sign, except that in commercial and industrial districts "on-premises signs" – as defined in the Iowa Code, Transportation (820), Chapter 5, Outdoor Advertising, Section 5.1(16) – may include intermittent lights subject to the following limitations:

(1) The sign shall not exceed eight (8) feet in length or height and shall not contain more than ten (10) intermittent lights.

(2) Each intermittent light shall not exceed sixty (60) watts.

(3) Each intermittent light shall be covered or colored (which cover or color shall not be red, clear, green or blue) to prevent the light from glaring or impairing the vision of the driver of any motor vehicle.

(4) The sign shall not encroach upon or hang over the street or highway right-of-way.

(5) The intermittent lights shall only be allowed at hours determined by the Council when the permit is issued, which shall take into consideration the location of the sign and any problems specifically contemplated by that permit application.

F. Official Signs. Only an official traffic, street or related sign approved for placement by an official public body shall be placed on any street or highway right-of-way or other public property. Other signs shall not closely resemble or approximate the shape, form and color of official signs, signals and devices.

G. Safety. Signs and sign structures shall not be located where size, content, coloring or illumination is a traffic hazard by obstructing driver vision, detracting from any traffic control device, or being confused with an authorized traffic control device.

16. Rear and Side Yard Parking Requirements. Property owners may park currently licensed automobiles, trailers, campers, boats and/or outdoor recreational vehicles on a City-approved parking pad placed in their rear or side yard. The property owner must complete a Parking Pad Site Plan Application, pay a $20.00 permit fee, and comply with all of the site plan requirements before receiving approval by the City. The parking of any automobiles, trailers, campers, boats and/or outdoor recreational vehicles in the front yard of any property is prohibited unless parked completely upon a driveway. ***(Ord. 302 – Aug. 13 Supp.)***

165.09 A-1 AGRICULTURAL DISTRICT. The A-1 District is intended to retain land suited for eventual development for urban uses in a productive agricultural use until the community can feasibly extend its urban services and thus grow in an orderly manner.

1. Principal Permitted Uses. Only the uses of structures or land listed in this section shall be permitted in the A-1 District.

A. Agriculture and usual agricultural buildings and structures; but not including commercial livestock feed lots, poultry farms, grain storage and drying facilities.

B. One-family dwellings.

C. Churches, chapels, temples and similar places of worship.

D. Public and parochial schools, elementary and secondary, and other educational institutions having an established current curriculum the same as ordinarily given in the ADM public school system, but excluding boarding schools, nursery schools, and child care centers; provided that all principal buildings be set back a minimum of thirty-five (35) feet from all property lines.

E. Publicly owned parks, playgrounds, golf courses and recreation areas.

F. Private noncommercial recreation areas and centers including country clubs, swimming pools, golf courses and riding stables.

G. Cemeteries, including mausoleums.

H. Kennels for the raising, breeding and boarding of dogs or other small animals, provided that all buildings, including exercise runways, be at least two hundred (200) feet from all property lines, and at least 500 feet from an "R" District boundary.

I. Nurseries, greenhouses, truck gardens.

J. Public water supply and sewage treatment facilities.

K. Electrical and liquefied product transmission and regulating facilities.

2. Permitted Accessory Uses.

A. Uses of land or structures customarily incidental and subordinate to one of the permitted principal uses, unless otherwise excluded.

B. Private garage or carport.

C. Home occupations as permitted in and as limited by Section 165.08(9) of this chapter.

D. Temporary buildings, including mobile homes or recreational vehicles, for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

E. Roadside stands for the sale of seasonal products grown on the premises, provided that no permanent structures shall be erected or maintained.

F. Parabolic or dish type antennas larger than eighteen (18) inches in diameter shall be placed in the rear yard and must be a minimum of ten (10) feet from all property lines and shall not be larger than eight (8) feet in

diameter if of opaque construction or ten (10) feet in diameter if of wire or mesh construction. All such parabolic or dish type antennas shall be mounted at ground level. The erection and construction of a parabolic or dish type antenna shall require obtaining a building permit from the administrative official prior to the commencement of any work.

G. Solar collectors mounted on the ground in the rear yard or attached to the principal building facing the front, side or rear yard at a height no greater than the peak of the roof of the principal structure. The mounting of solar collectors shall be in accordance with the requirements of the Building Code. If required, solar access easements may be obtained from adjoining property owners in accordance with State statutes.

3. Bulk Regulations. The following minimum requirements shall be observed, subject to the modifications contained in Section 165.28.

Lot Area:	Dwelling: 5 acres; no minimum required for other permitted uses
Minimum Floor Area:	1,050 square feet for dwelling; if building is two or more stories, first floor shall be a minimum of 800 square feet.
Lot Width:	200 feet
Front Yard:	75 feet
Side Yards:	Dwellings: Total side yard – 50 feet; minimum on one side – 20 feet; corner lot adjacent to street – 75 feet Other Permitted Uses: 50 feet on each side, unless otherwise indicated herein.
Rear Yard:	50 feet
Maximum Height:	Principal Building – 40 feet; Accessory Building – 20 feet in lots of less than 10 acres and 30 feet in lots of 10 acres or more, except that radio communication towers may not exceed 45 feet in height.
Maximum Number of Stories:	Principal Building – 3 stories Accessory Buildings – 1 story

4. Minimum Width Regulation. The minimum dimension of the main body of the principal building shall not be less than twenty-four (24) feet.

5. Perimeter Foundation Requirement. A permanent perimeter foundation, meeting the De Soto Building Code standards, shall be required for all principal buildings.

6. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29 for all permitted uses.

7. Site Plan Requirements. See Chapter 156 of this Code of Ordinances.

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165.10 A-2 ANNEXATION DISTRICT. (Reserved for Future Use)

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165.11 AR SINGLE-FAMILY ACREAGE. The AR District is established to provide for large lot residential development in agricultural areas.

1. Principal Permitted Uses. Only the uses of structures or land listed in this section shall be permitted in the AR District.

A. Any use permitted in and as limited in the A-1 District.

2. Permitted Accessory Uses.

A. Accessory uses permitted in and as limited in the A-1 District.

3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Section 165.28.

Lot Area:	2 acres
Minimum Floor Area:	1,050 square feet for dwelling; if building is two or more stories, first floor shall be a minimum of 800 square feet; if building is a split level, each level shall be a minimum of 400 square feet. If a building is a split foyer, the square footage shall be a minimum of 1,050 square feet per story.
Lot Width:	200 feet
Front Yard:	100 feet
Side Yards:	A total of 50 feet; one side may be reduced to 20 feet; 20 feet for any other principal building.
Rear Yard:	Dwelling – 75 feet; any other principal building – 50 feet.
Maximum Height:	Principal Building – 40 feet; Accessory Building – 14 feet, except that radio communication towers may not exceed 45 feet in height.
Maximum Number of Stories:	Principal Building – 3 stories Accessory Buildings – 1 story

4. Minimum Width Regulation. The minimum dimension of the main body of the principal building shall not be less than twenty-four (24) feet.

5. Perimeter Foundation Requirement. A permanent perimeter foundation, meeting the De Soto Building Code standards, shall be required for all principal buildings.

6. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

7. Site Plan Requirements. See Chapter 156 of this Code of Ordinances.

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165.12 R-1 SINGLE-FAMILY RESIDENTIAL DISTRICT. The R-1 District is established to provide for single-family residential uses and areas where similar residential development seems likely to occur.

1. Principal Permitted Uses. Only the uses of structures of land listed in this section shall be permitted in the R-1 District.

A. Single-family dwellings.

B. Churches, chapels, temples, and similar places of worship, provided that all principal buildings be set back a minimum of thirty-five (35) feet from all property lines.

C. Public and parochial schools, elementary and secondary, and other educational institutions having established current curriculum the same as ordinarily given in the ADM public school system, but excluding boarding schools, nursery schools, and child care centers, provided that all principal buildings be set back a minimum of thirty-five (35) feet from all property lines. Museums, libraries, parks and playgrounds, community center, and similar uses operated by the City.

D. Golf courses, country clubs, tennis courts and similar recreational uses, provided that any such use not be operated primarily for commercial gain.

E. Family homes as permitted by and as limited by Section 414.22, Code of Iowa.

F. Elder family homes as permitted by and as limited by Section 414.29 and Chapter 135K, Code of Iowa.

2. Permitted Accessory Uses.

A. Private plant nurseries and greenhouses not to exceed two hundred forty (240) square feet and not involving retail or wholesale sales.

B. Private swimming pools when enclosed with a non-climbable fence at least seventy-two (72) inches in height or any enclosure designed for wading or swimming which shall be deemed to be a swimming pool if it is capable of holding 18 inches depth of water.

C. Uses of land or structures customarily incidental and subordinate to one of the permitted principal uses, unless otherwise excluded.

D. Private garage or carport.

E. Home occupations as permitted in and as limited by Section 165.08 of this chapter.

F. Temporary buildings for uses incidental to construction work, which buildings shall be removed upon the completion or abandonment of the construction work.

G. Temporary use of a dwelling structure within a new subdivision as a job office and real estate office for the subject subdivision, which use shall terminate upon completion or abandonment of the project.

H. Parabolic or dish type antennas larger than eighteen (18) inches in diameter shall be placed in the rear yard and must be a minimum of ten (10)

feet from all property lines and not larger than eight (8) feet in diameter if of opaque construction or ten (10) feet in diameter if of wire or mesh construction. All such parabolic or dish type antennas shall be mounted at ground level. The erection and construction of a parabolic or dish type antenna shall require obtaining a building permit from the administrative official prior to the commencement of any work.

I. Solar collectors mounted on the ground in the rear yard or attached to the principal building facing the front, side or rear yard at a height no greater than the peak of the roof of the principal structure. The mounting of solar collectors shall be in accordance with the requirements of the Building Code. If required, solar access easements may be obtained from adjoining property owners in accordance with State statutes.

3. Bulk Regulations. The following minimum requirements shall be observed, subject to the modifications contained in Section 165.28.

Lot Area:	8,000 square feet for each dwelling plus its accessory building. Where public sewer facilities are not available, not less than 20,000 square feet.
Minimum Floor Area:	1,050 square feet for dwelling; if building is two or more stories, first floor shall be a minimum of 800 square feet; if building is a split level, each level shall be a minimum of 400 square feet. If a building is a split foyer, the square footage shall be a minimum of 1,050 square feet per story.
Lot Width:	80 feet; 100 feet where public sewer is not available. Corner lots shall be 10 feet wider.
Front Yard:	25 feet; when fronting on the right-of-way of a major thoroughfare shown on the Official Major Street Plan, the front yard shall be measured from the proposed right-of-way line.
Side Yards:	A total of 15 feet; one side may be reduced to not less than 7 feet; 15 feet for any other principal building.
Rear Yard:	Dwelling – 25 feet; any other principal building – 40 feet.
Maximum Height:	Principal Building – 40 feet; Accessory Building – 14 feet, except that radio communication towers may not exceed 45 feet in height.
Maximum Number of Stories:	Principal Building – 3 stories Accessory Buildings – 1 story

4. Minimum Width Regulation. The minimum dimension of the main body of the principal building shall not be less than twenty-four (24) feet.

5. Perimeter Foundation Requirement. A permanent perimeter foundation, meeting the City's Building Code standards, shall be required for all principal buildings.

6. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

7. Site Plan Requirements. See Chapter 156 of this Code of Ordinances.

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165.13 R-2 ONE- AND TWO-FAMILY RESIDENTIAL DISTRICT. The R-2 District is established to provide for single and two-family residential uses and areas where similar residential development seems likely to occur.

1. Principal Permitted Uses. Only the use of structures or land listed in this section shall be permitted in the R-2 District.

   A. Uses permitted in the R-1 District.

   B. Two-family dwellings.

   C. Alterations and conversions of single-family dwellings into two-family dwellings in accordance with the lot area, frontage and yard requirements set forth in this section.

   D. Nursing, convalescent, and retirement homes.

   E. Child care centers and nursery schools.

2. Permitted Accessory Uses.

   A. Accessory uses as permitted in the R-1 District.

3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Section 165.28.

Lot Area:	8,000 square feet for each single-family dwelling; 12,000 square feet for each two-family dwelling. Where public sewer facilities are not available, not less than 20,000 square feet for each single-family dwelling, 40,000 square feet for each two-family dwelling. If a building is a split level, each level shall be a minimum 350 square feet. If a building is a split foyer, the square footage shall be a minimum of 950 square feet per story.
Minimum Floor Area:	Single-family – 950 square feet. Two-family – 750 square feet per unit. If building is two or more stories, minimum first floor area shall be 700 square feet or single-family and 550 square feet for two-family or greater.
Lot Width:	Single-family dwelling – 80 feet. Two-family dwelling – 120 feet. Where public sewer is not available - 120 feet.
Front Yard:	25 feet; when fronting on the right-of-way of a major thoroughfare shown on the Official Major Street Plan, the front yard shall be measured from the proposed right-of-way line.
Side Yards:	A total of 15 feet; one side may be reduced to not less than 7 feet; 15 feet for any other principal building.
Rear Yard:	Dwelling – 25 feet; any other principal building – 40 feet.
Maximum Height:	Principal Building – 40 feet; Accessory Building – 14 feet, except that radio communication towers may not exceed 45 feet in height.
Maximum Number of Stories:	Principal Building – 3 stories Accessory Buildings – 1 story

4. Minimum Width Regulation. The minimum dimension of the main body of the principal building shall not be less than twenty-four (24) feet.

5. Perimeter Foundation Requirement. A permanent perimeter foundation, meeting the City's Building Code standards, shall be required for all principal buildings.

6. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

7. Site Plan Requirements. See Chapter 156 of this Code of Ordinances.

8. Side-by-Side Residential Duplex Dwelling. Where a side-by-side residential duplex dwelling is legally constructed, and the plat in which such dwelling is located is properly recorded, providing the dwelling has met zoning regulations at the time it was constructed, inspected, and certificate of occupancy issued; the lot may thereafter be divided to provide individual ownership of the duplex units by the following procedure:

A. A Plat showing the as-built location of the duplex structure on the lot shall be filed with the City.

B. The plat of survey shall provide a reference to this section and indicate the purpose for which the plat is prepared.

C. The plat shall locate the new ownership division line along the common wall of the structure, and provide individual legal descriptions for each new parcel.

D. If the proposed division is approved by the City, following review by the County Auditor and Recorder, a deed may be recorded thereafter affecting the lot division, and each lot may be in separate ownership.

E. A copy of the recorded deeds and plat of survey shall be filed with the City.

9. In the event that a duplex or part thereof is removed or destroyed, the City may require that the duplex unit be reproduced or reconstructed as before, but the newly created lots may not otherwise be considered buildable lots unless the proposed construction meets the zoning setback and bulk requirements for the zoning district in which it is then located.

10. The following requirements would have to be met by each unit of the duplex divided as herein provided:

A. Lots will comply with the zoning and/or deed restrictions.

B. Buildings whose ownership is divided are required to be and remain of the same exterior finish, including siding, roofing, windows, paint color (or vinyl), garage doors; and colors would be kept the same, including the building roof which would be replaced all at one time when required, and of the same color and pattern.

C. Exterior storage buildings of like structure and construction of the original edifice will be allowed with a maximum size of 12 feet by 12 feet, painted and finished the same as original, on a permanent slab or foundation.

D. Rear yard fencing in compliance with this Code of Ordinances is permitted.

E. Water and sewer services shall be entirely separate. Common electrical and gas lines may serve all units, but each unit shall be separately metered.

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165.14 R-3 MULTI-FAMILY RESIDENTIAL DISTRICT. The R-3 District is established to provide for multiple family residential uses other than row dwellings and condominium dwellings.

1. Principal Permitted Uses. Only the uses of structures or land listed in this section shall be permitted in the R-3 District.

   A. Uses permitted in the R-2 District.

   B. Multiple-family dwellings (apartments and condominiums), exclusive of row dwellings and townhouses, consisting of not more than twenty-four (24) dwelling units in one building.

   C. Boarding and Rooming Houses.

   D. Nursing, convalescent, and retirement homes.

   E. Child care centers and nursery schools.

2. Permitted Accessory Uses.

   A. Storage garages, where the lot is occupied by multiple dwellings.

   B. Accessory uses as permitted in the R-1 District.

3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Section 165.28. Sanitary sewer is required for other than R-1 or R-2 residential use.

Lot Area:	12,000 square feet
Lot Area Per Dwelling Unit:	2,500 square feet per unit
Minimum Floor Area:	750 square feet per unit, except for efficiency units and one-bedroom apartments, which shall be 600 square feet.
Lot Width:	120 feet.
Front Yard:	25 feet; when fronting on the right-of-way of a major thoroughfare shown on the Official Major Street Plan, the front yard shall be measured from the proposed right-of-way line.
Side Yards:	A total of 15 feet; one side may be reduced to not less than 7 feet; 15 feet for any other principal building.
Rear Yard:	Dwelling – 25 feet; any other principal building – 40 feet.
Maximum Height:	Principal Building – 40 feet; Accessory Building – 14 feet, except that radio communication towers may not exceed 45 feet in height.
Maximum Number of Stories:	Principal Building – 3 stories Accessory Buildings – 1 story
More Than One Dwelling Unit on a Lot:	Where more than one principal building is constructed on a lot such principal buildings shall be separated by not less than 40 feet and the front, rear and side yards shall be determined considering all principal buildings as one unit.

4. Minimum Width Regulation. The minimum dimension of the main body of the principal building shall not be less than twenty-four (24) feet.

5. Perimeter Foundation Requirement. A permanent perimeter foundation, meeting the City's Building Code standards, shall be required for all principal buildings.

6. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

7. Site Plan Requirements. See Chapter156 of this Code of Ordinances.

8. Minimum Open Space. The total land area devoted to open space and landscaping shall not be less than twenty percent (20%) of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings; except ornamental structures included as part of the landscaping theme.

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165.15 R-4 ROW DWELLING AND TOWNHOUSE DISTRICT. The R-4 District is established to provide for row dwelling and townhouse dwelling uses and areas.

1. Principal Permitted Uses. Only the uses of structures or land listed in this section shall be permitted in the R-4 District.

   A. Row dwellings or townhouses consisting of not more than twelve (12) dwelling units in one building or attached structure; and not to exceed six (6) units in length.

   B. For units to qualify under the terms and provisions of this classification, each dwelling unit shall have separate facilities for gas, electricity, sewerage and water.

2. Permitted Accessory Uses.

   A. Storage garages.

3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Section 165.28. Sanitary sewer is required for other than R-1 or R-2 residential use.

Minimum Plat Area:	15,000 square feet (the area within the perimeter of the plat)
Lot Area Per Dwelling Unit:	2,500 square feet per unit
Minimum Floor Area:	750 square feet per unit.
Lot Width:	Row dwellings – 20 feet per unit; 75 feet overall.
Front Yard:	25 feet; when fronting on the right-of-way of a major thoroughfare shown on the Official Major Street Plan, the front yard shall be measured from the proposed right-of-way line.
Side Yards:	A total of 15 feet; one side may be reduced to not less than 7 feet; 15 feet for any other principal building. For the purpose of determining side yard requirements in row dwellings, the entire row dwelling structure shall be considered to be one building.
Rear Yard:	Same as in R-2 District
Maximum Height:	Same as in R-2 District
Maximum Number of Stories:	Same as in R-2 District

4. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

5. R-1 or R-2 Election. In any R-4 District the owner may elect to treat the district as an R-1 or R-2 District; provided, however, if plat approval is requested containing any one- or two-family detached dwelling, then the entire district will be

either an R-1 District or an R-2 District and subject to the requirements of Section 165.11 or 165.12. Thereafter, no row dwellings or townhouse dwellings may be built in said district.

6. Site Plan Requirements. See Chapter 156 of this Code of Ordinances.

7. Minimum Open Space. The total land area devoted to open space and landscaping shall not be less than twenty percent (20%) of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings; except ornamental structures included as part of the landscaping theme.

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165.16 R-5 PLANNED UNIT DEVELOPMENT DISTRICT. The R-5 District is intended and designed to provide a means for the development of large tracts of ground on a unit basis, allowing greater flexibility and diversification of land uses and building locations than the conventional single lot method provided in other sections of this chapter in AR, R-1, R-2, R-3, and R-4 districts. It is the intent of this section that the basic principles of good land use planning including an orderly and graded relationship between various types of uses be maintained and that the sound zoning standards as set forth in this chapter and statutes concerning population density, adequate light and air, recreation and open space, and building coverage be preserved.

1. Procedure. The owner or owners of any tract of land comprising an area of not less than five (5) acres may submit to the City Council a petition requesting a change to the R-5 zoning district classification. The petition shall be accompanied by a plan for the use and development of the entire tract of land. The development plan shall be referred to the Commission for study and report. The Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan, and with recognized principles of architectural design, land use planning and landscape architecture. The Commission may approve the plan as submitted or, before approval, may require that the applicant modify, alter, adjust, or amend the plan as the Commission deems necessary to the end that it preserve the intent and purpose of this chapter to promote public health, safety, morals and the general welfare. The development plan as approved by the Commission shall then be reported to the City Council, whereupon the Council may approve or disapprove said plan as reported or may require such changes thereto as it deems necessary to effectuate the intent and purposes of this chapter. If the Council approves the preliminary plan and request for rezoning, the applicant shall submit within 270 days, or such longer period as may be approved by the Council, to the Commission a final development plan, in triplicate, of not less than one stage of the proposed development showing in detail the location of all proposed:

A. Buildings and uses, the height and exterior design of typical dwellings and the number of dwelling units in each;

B. Parking areas;

C. Access drives;

D. Streets abutting or within the proposed development;

E. Walks;

F. All proposed walls and fences;

G. Landscaping and plant material;

H. Required peripheral yards;

I. Common land, recreation areas and parks;

J. Existing and proposed utilities and public easements;

K. Proposed signs and their area and dimensions;

L. Storm and sanitary sewer lines;

M. Water mains; and

N. Development stages and timing.

2. Required Documents. The final development plan shall be accompanied by the following required documents:

A. If the proposed development includes common land which will not be dedicated to the City, and the proposed development will not be held in single ownership, proposed by-laws of a homeowner's association fully defining the functions, responsibilities and operating procedures of the association shall be included. The proposed by-laws shall include but not be limited to provisions: (a) automatically extending membership in the association to all owners of dwelling units within the development; (b) limiting the uses of the common property to those permitted by the final development; (c) granting to each owner of a dwelling unit within the development the right to the use and enjoyment of the common property; (d) placing the responsibility for operation and maintenance of the common property in the association; (e) giving every owner of a dwelling unit voting rights in the association; and (f) if the development will combine rental and for sale dwelling units, stating the relationship between the renters and the homeowner's association and the rights renters shall have to the use of the common land.

B. Performance bond which shall insure to the City that the dedicated public streets, utilities, and other common development facilities shall be completed by the developer within the time specified in the final development plan.

C. Covenant to run with the land, in favor of the City and all persons having a proprietary interest in any portion of the development premises, that the owner of the land or successors in interest will maintain all interior streets, parking areas, sidewalks, common land, parks and plantings which have not been dedicated to the City in compliance with this Code of Ordinances.

D. Any additional agreements required by the Council at the time of preliminary plat approval.

E. A final plat shall be submitted with each stage of the final development plan. The plat shall show buildings lines, lots and/or blocks, common land, streets, easements, and other applicable items required by the subdivision regulations. Following approval of the final plat by the Commission and Council, the plat shall be recorded with the County Auditor and Recorder.

3. The final development plan and required documents shall be reviewed by the Commission, for compliance with the R-5 standards and substantial compliance with the preliminary plan. The Commission's recommendations and report on the final development plan shall be referred to the Council for final approval. The final development plan and final plat shall be approved by the Council before any building permit is issued.

4. Permitted principal and accessory land uses, lot area, yard and height requirements shall be as set out below, which shall prevail over conflicting requirements of this section or the Subdivision Regulations.

A. Buildings shall be used only for:

(1) Residential purposes;

(2) Occupant garages, occupant storage and similar accessory uses;

(3) Noncommercial recreational facilities; and

(4) Community activities including churches and schools.

B. The minimum lot and yard requirements of the zoning districts in which the development is located shall not apply, except that minimum yards specified in the district shall be provided around the boundaries of the development. The Council may require open space or screenings be located along all or a portion of the development boundaries. The height requirements of the zoning district in which the development is located shall apply within 125 feet of the development boundary.

C. All public streets, water mains, sanitary sewer and storm sewer facilities shall comply with appropriate ordinances and specifications of the City.

D. "Common land" as used in this section refers to land retained in private ownership for the use of the residents of the development, or to land dedicated to the general public.

E. Any land gained within the development because of the reduction in lot sizes, below minimum Zoning Ordinance requirements, shall be placed in common land to be dedicated to the City or retained in private ownership to be managed by a homeowner's association.

F. The requirements of this chapter relating to off-street parking and loading shall apply to all R-5 Districts.

G. The final development plan shall comply with the density requirement.

5. The maximum number of dwelling units permitted in an R-5 District shall be determined by dividing the net development area by the minimum lot area per dwelling unit required by the zoning district or districts in which the area is located then multiplied by 115 percent. (In the R-2 District, the one-family dwelling requirement shall apply.) Net development area shall be determined by subtracting the area set aside actually proposed for streets from the gross development area. The area of land set aside for common land, open space, or recreation shall be included in determining the number of dwelling units permitted. The maximum number of multiple dwelling units permitted in the R-5 development shall be determined by the zoning district in which the development is located as follows:

Zoning District	Percentage of Total Dwelling Units Permitted as Multiples
AR	10%
R-1	25%
R-2	50%
R-3	100%
R-4	100%

If the development area contains two (2) or more different zoning classifications, the number of dwelling units permitted shall be determined in the direct proportion to the area of each zoning classification contained in the entire tract.

6. The Council may make the approval of the development plan contingent upon the completion of construction and improvements within a reasonable period of time; provided, however, in the determination of such period, the Council shall consider the scope and magnitude of the development project and any schedule of construction and improvements submitted by the developer. Failure to complete all construction and improvements within said period of time shall be deemed sufficient cause for the Council to rezone the unimproved property to the classification effective at the time of original submission of the development plan, unless an extension as recommended by the Commission and approved by the Council for due cause shown. Any proposed change in the development plan after approval by the Council shall be resubmitted and considered in the same manner as the original proposal. The term "unimproved" property means all property situated within a stage or stages of the final development plan upon which the installation of improvements has not been commenced.

7. In no event shall the installation of any improvements be commenced in the second or subsequent stages of the final development plan until such time as ninety percent (90%) of infrastructure improvements including streets and utilities have been completed in any prior stage of such plan.

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165.17 PD PLANNED DEVELOPMENT DISTRICT. The PD (Planned Development) Overlay District is intended to provide flexibility in the design of planned projects; to encourage innovation in project design that incorporates open space and other amenities; and to insure compatibility of developments with the surrounding urban environment. The PD (Planned Development) District is intended to promote developments that will be advantageous to the City and its urban form by permitting project design that will surpass the quality of development resulting from application of the regulations of conventional zoning districts. While the PD District may appear to deviate from a literal interpretation of the land development regulations, it is not intended to encourage deviations from the City's comprehensive plan or overall development objectives. The District shall not be used to secure approval for projects that do not conform to the City's comprehensive plan.

1. PD-1 (General PD) District. In order to permit maximum applicability of the PD District, the PD-1 District is hereby created. The PD-1 (General PD) District is intended to accommodate large, comprehensively planned developments that are likely to develop over a relatively long period of time. The PD-1 creates special guidelines and regulations to ensure that development over time conforms to an established master plan. The PD-1 also may establish the preliminary plat for those projects which require platting.

2. Criteria for Use. The PD (Planned Development) District is generally intended for use in the following urban contexts.

A. Vacant Land. Areas of substantial open space where the structure of conventional zoning may artificially limit or constrain good urban design, may restrict the achievement of the City's development objectives, or may not be appropriate to changes in technology or demand consistent with the best interests of the City.

B. Community Development Areas. Areas of the City that are in need of rehabilitation or redevelopment, including areas that may be deficient in public facilities or services. In these situations, the PD District may encourage private investment by recognizing the need for flexibility that conventional zoning regulations do not provide.

C. Neighborhood Contexts. Areas in which sensitive project design is critical to maintain and protect the value of surrounding residential neighborhoods and other sensitive or vulnerable urban settings.

D. Large Projects. Projects that have substantial effects on their urban and rural surroundings because of their size and scale.

E. Large areas that may be zoned prior to development by the Planning and Zoning Commission and City Council consistent with the Comprehensive Plan, but which require individual project approval as development occurs.

4. Permitted Land Uses. A Planned Development may include residential, office, commercial, industrial, or public land uses, subject to the requirements of the underlying zoning district.

5. PD-1 (General PD) District: Application Procedures.

A. Minimum Size. The minimum size of a PD-1 District shall be three acres.

B. Pre-application Concept Plan. Prior to filing an application for approval of a PD-1 District, the applicant shall meet with the City Council for

the purpose of submitting a pre-application concept plan. This plan shall illustrate the conceptual overall plan for the District and shall include at a minimum the information required in Table One. The City Council shall review and comment on the proposed concept plan and shall provide the applicant with written comments within thirty days of submission of the concept plan. The review of the concept plan shall include consideration of the following criteria:

(1) Land use intensity and density.

(2) Ability to provide a positive environment for intended uses, including schematic building configurations, arrangements, and general landscaping and site design.

(3) Use of open space.

(4) Impact on the surrounding natural and built environment.

(5) Adequacy of on- and off-site transportation and utility systems to serve the proposed project.

(6) Consistency with the City's comprehensive plan.

Following review of the pre-application concept plan, the applicant may proceed with filing a formal application for approval of a PD-1 District. This plan shall illustrate the development master plan for the District and shall include at a minimum the information required in Table One.

C. Development Agreement. A PD-1 application shall include a Development Agreement establishing the development regulations for the district unless initiated by the Planning and Zoning Commission or City Council. The Development Agreement shall specify the following regulations:

(1) Location and quantities of various land uses.

(2) Maximum floor area ratios and residential densities.

(3) Maximum building and impervious coverage.

(4) Front, side, and rear yard setbacks.

(5) Maximum heights of proposed structures.

(6) Design standards applicable to the project.

(7) Incorporation of graphic development plans and drawings into the site development regulations.

D. Review and Action on Applications. The Planning and Zoning Commission and City Council shall review and evaluate each PD-1 District application. The Planning and Zoning Commission and City Council may impose reasonable conditions, as deemed necessary to ensure that a PD shall be compatible with adjacent land uses, will not overburden public services and facilities and will not be detrimental to public health, safety and welfare. The Commission, after proper notice, shall consider and act upon each application. The Commission may recommend amendments to PD-1 District applications. The recommendation of the Commission shall be transmitted to the Council for final action. The City Council, after proper notice, shall hold

a public hearing and act upon any ordinance establishing a PD-1 District. "Proper notice" means the same notice established for any other zoning amendment. In their respective reviews of the PD-1 application, the Commission and Council shall base decisions on findings of fact as set forth in the criteria presented in Table Two. Upon approval by the Council, the Development Plan and Agreement shall become a part of the ordinance creating or amending the PD District. All approved plans shall be filed with the City Clerk.

E. Issuance of Building Permits. The City shall not issue a building permit, certificate of occupancy, or other permit for a building, structure, or use within a PD-1 District unless it is in compliance with the approved Development Plan or any approved amendments.

F. Changes or Modifications to Development Plans. The City Council is authorized to approve amendments to an approved development plan provided that:

(1) A written request is filed with the City Council, along with information specifying the exact nature of the proposed amendment.

(2) The amendment is consistent with the provisions of this section.

(3) The amendment does not alter the approved site regulations of the development plan and does not materially alter other aspects of the plan, including traffic circulation, land uses or land use intensity, mixture of use types, and physical design.

(4) Any amendment not conforming to these provisions shall be submitted to the Commission and Council for action.

G. Termination of PD-1 District. If no substantial development has taken place in a Planned Development District for three years following approval of the District, the Commission shall reconsider the zoning of the property and may, on its own motion, initiate an application for rezoning the property.

5. Planning and Zoning Commission or City Council Initiated PD-1 Districts. In some situations, the Commission and/or Council may initiate or approve a rezoning of an area to a PD-1 District without submission of a detailed development plan. This action establishes the land uses permitted in an area consistent with the Comprehensive Development Plan, but requires subsequent approval of specific projects through the normal PD-1 submission or approval procedures. An application for creation of such a PD-1 District shall include the following, prepared by the City Council or applicant:

A. A statement describing the special characteristics of the district and the reason for its creation.

B. A map indicating the boundaries of the proposed district.

C. A generalized area development plan for the proposed district, including:

(1) A land use component, identifying proposed uses and the extent and location of each use.

(2) A transportation element, identifying any relevant vehicular, pedestrian, or bicycle transportation improvements necessary to ultimate development of the area.

(3) A utility service statement, identifying any necessary utility or infrastructure improvements necessary to the ultimate development of the area.

(4) An urban design element, if applicable, describing design frameworks, building scale and relationships, siting, landscape design, and other guidelines relating to the specific physical or urban environment of the proposed district.

TABLE ONE

APPLICATION REQUIREMENT	PD-1 Concept Plan	PD-1 Application
Location, size, legal description of site	*	
Existing topography at 2-foot intervals	*	
Location and description of major site features, including tree masses, drainage ways, wetlands, soils	*	
Location of 100-Year Floodplains	*	
Generalized land use plan	*	
Proposed types and densities of development	*	
Generalized internal and external transportation and circulation system, including pedestrian and bicycle system	*	
Location of driveways or access points adjacent to the project	*	
General location and size of buildings or building footprints	*	
Site master plan, including general envelopes of buildings, parking, open space, and other site features		*
Description and location of all use types included in the project, including maximum floor areas devoted to each use		*
Location and design of vehicular, bicycle, and pedestrian circulation systems, including relationship to external transportation system		*
Schematic location and development standards for open space, including conceptual landscape plan		*
Building design standards, including height, materials, sections, and other information required to describe the project		*
Location of existing and proposed utilities, sanitary sewers, storm water facilities, and water, gas, and electrical distribution systems		*
Proposed site development regulations, including maximum FAR or other density regulators, building and impervious coverage, setbacks, maximum heights, and other design standards specific to the project		*
Proposed public and private ownership boundaries, including proposed private lots and common ownership areas		*
Preliminary plat if applicable		*
Final plat if applicable		*
Schedule indicating proposed phasing and scheduling of development		*
Deed restrictions, covenants, agreements, association bylaws, and other documents controlling the use of property, type of construction, or development or activities of future residents		If required
Application checklist on a form provided by the City		*

TABLE TWO

Review Criteria and Standards for Findings of Fact

Site Development:	**Criteria for Findings of Fact**
Open Space	Open spaces should contribute to the quality of the overall project and should provide supporting amenities for residential development. Open spaces should contribute to the design of the project and, when appropriate, provide locations for project-related activities.
Landscaping	Landscaping should be integral to the development, providing street landscaping, breaks in uninterrupted paved areas, and buffering where required by surrounding land uses. Project design should preserve features of environmental importance to the greatest degree possible. These features include mature trees and woodlands, wetlands, steep slopes, waterways, and bodies of water.
Streetscape	Projects should relate to surrounding public streets and contribute to the quality of the street environment.
Building Design:	
Architectural Quality	Architectural design and building materials should be compatible with surrounding areas or reflect the specific design objectives of a new development area.
Transportation:	
Traffic Capacity	Project should not reduce the existing level of traffic service on adjacent streets. Compensating improvements should be included to mitigate impact on street system operations.
Street Network and Continuity	Project should maintain the continuity of the City's street network or should provide opportunities for local traffic flow away from major arterials.
Alternative Modes	Project should make appropriate accommodations for access by public transportation, bicycles, and pedestrians.
Public Facilities:	
Utility Service	Project is adequately served by public utilities and infrastructure.
Storm Drainage	Project should handle storm water adequately to prevent overloading of public storm water management system. Project should not inhibit development of other properties or create adverse effects on other sites. Development should not increase probability of erosion, flooding, landslides, or other run-off related effects. Project should maximize preservation and enhancement of natural drainage features on site and should facilitate storm water storage techniques consistent with the policies of the City.
Public Safety:	Project can be adequately served with police and fire protection.
Comprehensive Plan:	Project must be consistent with the city's comprehensive plan, including applicable special area or specific plans. Project design should be consistent with the development standards and objectives of these plans.

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165.18 R-6 MOBILE HOME RESIDENTIAL DISTRICT. The R-6 District is intended and designed to provide for certain medium density residential areas of the City, which by reason of their design and location, are suitable for mobile home development and which are compatible with surrounding residential areas.

1. Principal Permitted Uses. Mobile Home Parks, in accordance with regulations of the State of Iowa and minimum requirements contained herein, but not including mobile home sales and display areas. No part of any park shall be used for nonresidential purposes except such uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park. This shall in no way prohibit the sale by a resident owner of a mobile home located on a mobile home stand and connected to the pertinent utilities.

2. Accessory Uses. Accessory uses may include garbage and storage buildings and common facility service buildings which provide laundry facilities, accessory supplies, vending machines, etc.; also park management buildings, maintenance buildings, community buildings, and other uses of a similar nature. Common facility service buildings shall be located within the central "park" area, and shall be restricted to the use of the park occupants.

3. Height Regulations. No mobile home shall exceed twenty (20) feet in height; radio communication towers may not exceed 45 feet in height. Accessory building shall not exceed a height of fourteen (14) feet.

4. Plan Submittal. Each petition for a change to the R-6 zoning classification shall be accompanied by a mobile home park plan. Said plan shall show each mobile home space, the water, electrical and sewer lines servicing each mobile home space, the location of garbage receptacles, water hydrants, service buildings, driveways, walkways, recreation areas, required yards, existing and proposed grading, parking facilities, lighting, landscaping, and the location of existing trees, buildings, or other significant features. The required plan shall be considered by the Commission and Council, who may approve or disapprove said plan or require such changes thereto, as are deemed necessary.

5. Rental Space Area, Frontage and Yard Requirements.

A. The area proposed for a Mobile Home Park shall have a minimum of ten (10) acres. The maximum density allowed for the gross development area shall be seven (7) mobile home units per gross acre.

B. All Mobile Home Park perimeter yard requirements shall be not less than 30 feet.

C. No part of any mobile home space shall be closer to any public street upon which the park adjoins than 75 feet; however, interior park streets may be located within the setback area.

D. The individual mobile home lot shall contain not less than 4,275 square feet and shall measure at least 45 by 95 feet. Each lot shall have a front yard not less than 15 feet in depth measured from the edge of the surfaced private street to the mobile home. Side yards shall be provided and maintained so as to provide a minimum separation between mobile homes of at least 10 feet; and a minimum separation of at least 6 feet shall be maintained between mobile homes and any other buildings or structures on the same or adjoining lots. Rear yard separations shall be maintained so as to

provide separation of mobile homes of at least 16 feet, provided that the homes are placed no closer than 8 feet to the rear lot line as identified by the posts marking the electrical lines. Measurements to the mobile homes shall be taken from the closest point between the paved portion of the street and/or the closest point of the mobile homes at ground level, provided that no overhang or extension shall extend out from the mobile home by more than two (2) feet. Setbacks of neighboring mobile homes shall not differ by more than one or two feet.

E. A minimum of 250 square feet for each lot shall be provided for one or more recreational areas which shall be easily accessible to all park residents. The required recreational area shall be computed in addition to the minimum lot area specified herein.

6. Streets and Parking. The entrance road connecting the park streets with a public street shall have a minimum road pavement width of 31 feet, measured back to back of curbs. All interior streets shall be not less than 20 feet in width measured back to back of curbs. Where parking is permitted along side of interior streets, an additional 6 feet for parallel parking and an additional 16 feet for diagonal parking shall be provided on each side of the street. All streets shall be constructed in accordance with appropriate ordinances and specifications of the City Two off-street parking spaces shall be provided on each lot.

7. Anchorage and Skirting.

A. Tie-downs or anchors shall be provided on every mobile home stand. Each tie-down or anchor must be able to sustain a minimum tensile strength as required by the State Building Code.

B. Skirting of a permanent-type material and construction shall be in stalled within ninety (90) days to enclose the open space between the bottom of a mobile home floor and the grade level of the mobile home stand. The skirting shall be maintained in an attractive manner consistent with the exterior of the mobile home and to preserve the appearance of the mobile home park.

8. Utilities. Sewer and water facilities shall be provided for each Mobile Home Park space in accordance with the requirements of the Iowa State Department of Health. All mobile home developments must be connected to the municipal water system. All electrical and telephone lines shall be placed underground.

165.19 C-1 COMMUNITY AND HIGHWAY SERVICE COMMERCIAL DISTRICT. The C-1 District is designed to provide space for the general retail and professional office uses, and efficient development of major retail shopping areas. The uses permitted are also intended to accommodate both the general retail consumer and the needs and services of the automobile traveling consumer.

1. Principal Permitted Uses. Only the uses of structures or land listed in this section are permitted in the C-1 District.

A. Uses permitted in the C-1A District.

B. Retail business or service establishments such as the following:

(1) Animal hospital.

(2) Bowling alleys.

(3) Clubs, lodges and churches.

(4) Collection office of public utility.

(5) Furniture stores.

(6) Funeral homes and mortuaries.

(7) Gas stations.

(8) Golf driving range and miniature golf courses.

(9) Grocery stores including supermarkets.

(10) Household appliances - sales and repair.

(11) Meat market for storage.

(12) Medical, dental, and osteopathic clinics.

(13) Music recording studios.

(14) Plumbing, heating and air conditioning shops.

(15) Printing shops.

(16) Night clubs and taverns.

(17) Wholesale display and sales room.

(18) New and used car sales and service excluding body repair and painting.

(19) Child care centers and nursery schools.

C. Service, business or recreational uses such as the following:

(1) Automobile, trailer, motorcycle, boat, farm implement and lawn and garden establishments for display, hire, rental and sales (including sales lots). This paragraph shall not be construed to permit automobile, tractor or machinery wrecking and rebuilding and used parts yards.

(2) Car wash.

(3) Commercial swimming pools, skating rinks, golf driving ranges, miniature golf courses, drive-in theaters and similar recreational uses and facilities.

(4) Garage for general motor vehicle repair.

(5) Liquor and beverage stores.

(6) Motels and motor hotels.

(7) Drive-in restaurants.

(8) Recreational vehicle parks.

(9) Truck stops.

2. Permitted Accessory Uses.

A. Accessory uses and structures customarily incidental to any principal permitted use.

B. Storage of merchandise incidental to the principal use.

3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Section 165.28.

Lot Area:	No minimum
Lot Width:	No minimum
Front Yard:	30 feet; when fronting on the right-of-way of a major thoroughfare shown on the Official Major Street Plan, the front yard shall be measured from the proposed right-of-way line.
Side Yards:	No minimum shall apply, except where the side yard is adjacent to an "R" District, in which case the yard shall be at least 15 feet.
Rear Yard:	30 feet
Maximum Height:	40 feet except that radio communication towers may not exceed 45 feet in height.
Maximum Number of Stories:	3 stories

4. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

5. Site Plan Requirements. See Chapter156 of this Code of Ordinances.

6. Minimum Open Space. The total land area devoted to open space and landscaping shall not be less than twenty percent (20%) of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings; except ornamental structures included as part of the landscaping theme.

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165.20 C-1A NEIGHBORHOOD COMMERCIAL DISTRICT. The C-1A District is designed to provide space for the general retail and service commercial uses outside the central business district. The uses permitted are intended to accommodate primarily the local and trade area retail consumer.

1. Principal Permitted Uses. Only the use of structures or land listed in this section shall be permitted in the C-1A District.

A. Hospitals, clinics, group medical centers, or the office of a doctor, dentist, osteopath, or similar profession.

B. Business and professional offices including the following: law, engineering, real estate, insurance, and similar uses.

C. Personal service businesses such as beauty and barber shops, shoe repair and similar uses.

D. Retail business or service establishments such as the following:

(1) Antique shops.

(2) Apparel shops.

(3) Art shops.

(4) Baby and children stores.

(5) Bakeries or bakery outlets - retail sales only.

(6) Bicycle shops, sales and repairs.

(7) Book stores.

(8) Camera stores.

(9) Clothes cleaning and laundry pickup stations.

(10) Confectionery stores, including ice cream or snack bars.

(11) Convenience store.

(12) Dairy stores - retail only.

(13) Delicatessens.

(14) Dance studios.

(15) Drug stores.

(16) Dry goods stores.

(17) Florist shops.

(18) Furniture stores.

(19) Gift shops.

(20) Hardware stores.

(21) Hobby shops.

(22) Jewelry stores and watch repair shops.

(23) Key shops.

(24) Launderettes, coin-operated dry-cleaning establishments, and dry-cleaning or pressing establishments.

(25) Meat market for retail sales only.

(26) Leather goods store.

(27) Music stores.

(28) Music studios other than recording studios.

(29) Paint and wallpaper stores.

(30) Photographic studios.

(31) Postal substations.

(32) Professional offices.

(33) Retail printing/copy shops.

(34) Radio and television sales and repair shops.

(35) Real estate, insurance and financial institutions.

(36) Restaurants, cafes.

(37) Shoe and hat repair shops.

(38) Sporting goods stores.

(39) Tailor and dressmaking shops.

(40) Toy stores.

(41) Variety stores.

(42) Child care centers and nursery schools.

E. Service, business or recreational uses such as the following:

(1) Automobile accessory stores.

(2) Drive-in banks.

(3) Food, meat and fruit stores and food catering services, retail only.

(4) Laundry pickup stations.

(5) Travel and tourist information centers.

2. Permitted Accessory Uses.

A. Accessory uses and structures customarily incidental to any principal permitted use.

B. Storage of merchandise incidental to the principal use.

3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Section 165.28.

Lot Area:	No minimum
Lot Width:	No minimum
Front Yard:	30 feet; when fronting on the right-of-way of a major thoroughfare shown on the Official Major Street Plan, the front yard shall be measured from the proposed right-of-way line.
Side Yards:	No minimum shall apply, except where the side yard is adjacent to an "R" District, in which case the yard shall be at least 15 feet.
Rear Yard:	30 feet
Maximum Height:	40 feet except that radio communication towers may not exceed 45 feet in height.
Maximum Number of Stories:	2 stories

4. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

5. Site Plan Requirements. See Chapter 156 of this Code of Ordinances.

6. Minimum Open Space. The total land area devoted to open space and landscaping shall not be less than twenty percent (20%) of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings; except ornamental structures included as part of the landscaping theme.

[The next page is 975]

165.21 C-2 CENTRAL BUSINESS DISTRICT. The C-2 District is intended to accommodate the variety of retail stores and related activities which occupy the prime area within the Central Business District. No property shall be zoned C-2 Commercial unless it lies adjacent to property zoned C-2 Commercial as a part of the Central Business District.

1. Principal Permitted Uses.

   A. Any use permitted in the C-1A District, provided that the bulk regulations of the C-1A District shall not apply to such use.

   B. Owner-occupied dwelling units in existing structures. "Owner" includes family of owner within the second degree of consanguinity or affinity.

   C. Dwelling units occupied by a manager or managers in responsible charge, for adequate consideration, of the entire business or businesses housed in the same structure owned by the owner of the business or businesses.

   D. Combination of above uses.

2. Permitted Accessory Uses. Accessory uses permitted in the C-1A District, provided that the bulk regulations of the C-1A District shall not apply to such use.

3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications in Section 165.28.

Lot Area:	None
Front Yard:	None
Side Yards:	None, except where the side yard is adjacent to an "R" District, in which case the yard shall be at least 15 feet.
Rear Yard:	None
Maximum Height:	40 feet except that radio communication towers may not exceed 45 feet in height.
Maximum Number of Stories:	3 stories

4. Site Plan Requirements. See Chapter 156 of this Code of Ordinances.

5. Off-Street Parking and Loading. None required.

[The next page is 981]

165.22 C-3 PLANNED COMMERCIAL DEVELOPMENT DISTRICT.

1. Statement of Intent. The C-3 District is intended to provide for the development of shopping centers and/or commercial office buildings. For the purposes of this section, the term "shopping center" means a planned retail and service area under single ownership, management or control characterized by a concentrated grouping of stores and compatible uses, with various facilities designed to be used in common, such as ingress and egress roads, extensive parking accommodations, etc. Since shopping center developments, whether large or small, have a significant effect upon the Comprehensive Plan for the development of the City, extensive authority over their development is retained by the Council and Commission. Many matters relating to the shopping center's design, its potential for success or failure and its effect upon surrounding neighborhoods must be considered by the Council and Commission in order to be reasonably assured that the area will not eventually become blighted. It is further intended that in the event of an applicant's failure to construct a shopping center/office commercial structure in accordance with a reasonable time schedule the City Council shall enact the necessary legislation to reclassify the area to another classification consistent with the surrounding neighborhood. Such action would also, because of the reduction in commercial zoning in a given area, provide conditions whereby it could be reasonable for the Council to classify other areas in the vicinity for shopping center use.

2. Procedures. The owner or owners of any tract of land comprising an area of not less than five (5) acres may submit to the City Council a petition requesting a change to the C-3 zoning district classification. The petition shall be accompanied by a plan for the commercial use and development of the tract for the purposes of meeting the requirements of this section and be evidence of the feasibility of the project and its effects on surrounding property, including each of the following:

A. A site plan defining the areas to be developed for buildings, the areas to be developed for parking, the location of sidewalks and driveways and the points of ingress and egress, including access streets where required, the location and height of walls, existing and proposed grades, the location and type of landscaping and the location, size and number of signs, type or style or architecture, building materials, color or other significant features.

B. An analysis of market conditions in the area to be served. Including types and amount of service needed and general economic justification.

C. A traffic analysis of the vicinity indicating the effect of the proposed shopping center on the adjacent streets.

D. A statement of financial responsibility to assure construction of the shopping center, including landscaping, in accordance with the plan and the requirements of this section.

E. The development plan shall be referred to the Commission for study and report. The Commission shall review the conformity of the proposed development with the standards of the Comprehensive Plan, and with recognized principles of civic design, land use planning, and landscape architecture. The Commission may approve the plan as submitted or, before approval, may require that the applicant modify, alter, adjust, or amend the plan as the Commission deems necessary to the end that it preserve the intent and purpose of this chapter to promote public health, safety, morals, and

general welfare. The development plan as approved by the Commission shall then be reported to the City Council, whereupon the City Council may, approve or disapprove said plan as reported or may require such changes thereto as it deems necessary to effectuate the intent and purpose of this chapter.

3. Standards. Uses permitted in the C-3 district shall include any use permitted in the C-1A or C-2 districts and as limited by these districts, provided, however, the Council may consider any additional restrictions proposed by the owner. The bulk regulations of the C-2 district shall be considered minimum for the C-3 district; however, it is expected that these minimums will be exceeded in all but exceptional situations. Buildings may be erected to heights greater than those allowed in the C-2 district in accordance with the intent and purpose of this section.

4. Completion. The Council may make the approval of the shopping center/commercial office structure plan contingent upon the completion of construction and improvements within a reasonable period of time, provided, however, that in the determination of such period, the Council shall consider the scope and magnitude of the project and any schedule or timetable submitted by the developer. Failure to complete the construction and improvements within said period of time shall be deemed sufficient cause for the Council to rezone the subject property to the classification effective at the time of original submission of the shopping center plan, unless an extension is recommended by the Commission and approved by the Council for due cause shown. Any proposed change in the shopping center plan, after approval by the Council, shall be resubmitted and considered in the same manner as the original proposal.

5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

6. Landscaping. A minimum of twenty-five percent (25%) of the total area shall be retained as landscaped open space to include such items as walks, trees, shrubs, fountains or other ornamental features.

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165.23 C-4 OFFICE PARK COMMERCIAL DISTRICT.

1. Statement of Intent. The C-4 District is intended and designed to provide certain areas of the City for the development of professional and business offices. The district is intended to be compatible with established residential areas where limited office use would be suitable and not incompatible with the residential character of the district. The district is also intended for certain residential areas which by reason of proximity to existing commercial areas and major streets would be suitable for limited office use.

2. Principal Permitted Uses. Only the uses of structures or land listed in this section shall be permitted in the C-4 District.

A. Business and professional offices such as the following: law, engineering, architecture, real estate, insurance, accounting, bookkeeping, finance, banking, stock brokerage and uses of a like or similar nature.

B. The office of a doctor, dentist, osteopath, chiropractor, optometrist, chiropodist, or similar profession.

C. Clinics or group medical centers, including dental clinics, but not including animal clinics or hospitals.

D. Hospitals, libraries, funeral homes, and mortuaries.

E. Office buildings serving the management, research, design, marketing, and production needs of the general business community.

F. The following low-intensity commercial service uses, intended primarily to serve the occupants and patrons of the C-4 District, shall be permitted within a building housing a use permitted under items A through E above: bookstores, camera stores, snack shops, drug stores, gift shops, restaurants (not including drive-in restaurants), cocktail lounges, travel agencies, stationery stores, and uses of a similar nature.

3. Permitted Accessory Uses.

A. Accessory uses and structures customarily incidental to any principal permitted use.

B. Prescription pharmacy accessory to a medical clinic.

4. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Section 165.28.

Lot Area:	No minimum requirement
Lot Width:	No minimum requirement
Front Yard:	40 feet
Side Yards:	No minimum requirement, except when adjoining any "R" District or street right-of-way, in which case the yard shall be at least 25 feet.
Rear Yard:	30 feet
Maximum Height:	Principal building – 45 feet; accessory building – 12 feet

Maximum Number of Stories:	Principal building – 4 stories; accessory building – 1 story

5. Minimum Open Space. The total land area devoted to open space and landscaping shall not be less than twenty-five percent (25%) of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structure, or buildings, except ornamental structures included as part of the landscaping theme.

6. Off-street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

7. Site Plan Requirements. See Chapter 156 of this Code of Ordinances.

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165.24 M-1 LIGHT INDUSTRIAL DISTRICT. The M-1 District is intended and designed to provide for increased flexibility in the location of certain manufacturing and industrial uses while maintaining protection for nearby residential districts. It allows selected industries of a non-nuisance character to locate in areas within reasonable proximity of residential uses. The M-1 District is characterized by large lots, with landscaped grounds and ample provisions for off-street parking and loading spaces, and structures generally one or two stories in height.

1. Principal Permitted Uses. Only the uses of structures or land listed in this section shall be permitted in the M-1 District, provided, however, that all manufacturing, assembling, compounding, processing, packaging or other comparable treatment, including storage of any and all materials and equipment shall take place within completely enclosed buildings, except for parked motor vehicles and off-street parking and loading as required by Section 165.29. No dwelling or dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them. In addition, all open areas not used for off-street parking or loading shall be planted with grass, shrubs and trees, properly maintained, and kept free from refuse and debris.

A. Greenhouses

B. Mini warehouses, self storage

C. Any of the following commercial, retail or services uses:

(1) Animal hospital

(2) Bakeries or bakery outlets

(3) Bicycle shops, sales and repairs

(4) Bowling alley

(5) Clubs, lodges and churches

(6) Collection office for public utility

(7) Dance studios, gymnastics, martial arts and other similar facilities

(8) Furniture store

(9) Hardware store

(10) Paint/wallpaper store

(11) Funeral homes and mortuaries

(12) Household appliances – sales and repair

(13) Launderettes and dry cleaning establishments

(14) Meat market for storage

(15) Plumbing, heating and air conditioning shops

(16) Printing shops

(17) Wholesale display and sales room

(18) Car wash

(19) Commercial swimming pools, skating rinks, golf driving ranges, miniature golf courses, drive-in theatres and similar recreational uses and facilities

(20) Garage for general motor vehicle repair

(21) Recreational vehicle parks

(22) Any small office with fewer than 15 on-site employees

D. Assembly of small electrical appliances, small industrial and electronic instruments and devices, radios, phonographs and television sets, including the manufacture of small accessory parts only, such as coils, condensers, transformers, crystal holders and similar products.

E. Commercial trade schools.

F. Compounding and packaging of drugs, pharmaceuticals, cosmetics, perfumes and toiletries.

G. Laboratories; research, experimental and testing.

H. Manufacturing, assembling, compounding, processing, packaging, or other comparable treatment of the following:

(1) Bakery goods, candy and food products.

(2) Cameras and other photographic equipment.

(3) Electric and neon signs, outdoor advertising signs.

(4) Musical instruments, toys, novelties, and rubber and metal hand stamps.

(5) Pottery and other ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.

(6) Products from the following previously prepared materials: bone, canvas, cellophane, cloth, rope, cord, twine, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, cardboard, plastics, natural and synthetic rubber, precious or semi-precious metals or stones, shells, textiles, tobacco, wax, wood, yarns, light metal mesh, pipe, rods, strips or wire.

(7) Small precision instruments, such as barometers, clocks, watches and compasses.

I. Printing, lithographing or film processing plants.

J. Radio and television broadcasting stations and studios, but not including antennas or towers.

K. Warehouses for storage of merchandise or material in connection with the uses permitted in this district only.

L. Heliports.

M. Light metal fabrication facility – fabrication of metal using modern technology, such as lasers and computer numerically controlled equipment, and in which there is no heavy type of processing such as punch presses, stamping, shearing, casting, forging, or iron workers. (Within 30 feet of the

structure containing such facility, noise shall not, at any time, exceed 65 decibels.)

2. Permitted Accessory Uses.

A. Accessory uses of land or structures customarily incidental and subordinate to any of the above principal uses.

B. Dwellings for watchman or caretaker.

C. Employee cafeteria or other food concession in conjunction with permitted uses.

3. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Section 165.28.

Front Yard:	30 feet; when fronting on the right-of-way of a major thoroughfare shown on the Official Major Street Plan, the front yard shall be measured from the proposed right-of-way line.
Side Yards:	None required except when adjacent to an "R" or C-1 District or street right-of-way line, a side yard of 25 feet shall be required.
Rear Yard:	30 feet, unless the rear lot line adjoins a railroad right-of-way, in which case, none required.
Maximum Height:	40 feet, except that radio communication towers may not exceed 45 feet in height
Maximum Number of Stories:	3 stories

4. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

5. Site Plan Requirements. See Chapter156 of this Code of Ordinances.

6. Minimum Open Space. The total land area devoted to open space and landscaping shall not be less than fifteen percent (15%) of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings; except ornamental structures included as part of the landscaping theme.

[The next page is 1001]

165.25 M-1A LIMITED INDUSTRIAL DISTRICT.

1. Statement of Intent. The M-1A District is intended and designed to provide areas of the City suitable for activities and uses of a medium industrial nature. It is not intended that any new residential development be permitted in the M-1A District.

2. Uses Permitted. Only the use of structures of land listed in this section shall be permitted in the M-1A District.

A. Any use permitted in M-1 Districts.

B. Adult entertainment businesses.

C. Bag, carpet and rug cleaning.

D. Bakeries.

E. Welding or other metal working shops.

F. Carting, express, hauling or storage yards; contractors equipment and materials storage yards.

G. Creamery, bottling works, ice cream manufacturing (wholesale), ice manufacturing and cold storage plant.

H. Enameling, lacquering or japanning.

I. Laboratories; research, experimental and testing.

J. Lumber yards and building material sales yards.

K. Machine shops.

L. Manufacture of musical instruments and novelties.

M. Manufacture or assembly of electrical appliances, instruments and devices.

N. Manufacture of pottery or other similar ceramic products, using only previously pulverized clay and kilns fired only by electricity or gas.

O. Manufacture and repair of electric signs, advertising structures, sheet metal products, including heating and ventilating equipment.

P. Milk distribution station.

Q. Manufacture of wood products not involving chemical treatment.

R. The manufacturing, compounding, processing, packaging or treatment of cosmetics, pharmaceuticals and food products except; fish and meat products, cereals, sauerkraut, vinegar, yeast, stock feed, flour and the rendering or refining of fats and oils.

S. The manufacture, compounding, assembling or treatment of articles or merchandise from previously prepared materials such as bone, cloth, cork, fiber, leather, paper, plastics, metals or stones, tobacco, wax, yarns and wood.

T. Printing plant.

U. Storage and sale of livestock feed, providing dust is effectively controlled.

V. Flammable liquids storage not to exceed 40,000 gallons, provided it is located at least 200 feet from any "R" District.

W. Wholesale storage and warehouse establishments.

X. Monument sales yards.

3. Permitted Accessory Uses. Accessory uses customarily incidental to a permitted principal use, including accessory uses permitted in the M-1 District.

4. Required Conditions. No use shall be permitted to be established or maintained which by reason of its nature or manner of operation is or may become hazardous, noxious, or offensive owing to the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibrations, refuse matter or water-carried waste.

5. Adult Entertainment Businesses. It is the purpose of this section to regulate adult entertainment businesses to limit their inherent adverse impact in the community while at the same time permitting lawful businesses to conduct operations in the community. The City Council finds as evidenced in other cities that the number of adult entertainment businesses is increasing and that, because of their very nature, are recognized as having serious, objectionable operational characteristics, which are magnified when located in close proximity to dwellings, churches, schools, and parks. Special regulation of adult entertainment businesses is necessary to ensure that these adverse affects will not contribute to the blighting or downgrading of the surrounding neighborhood. The City Council further finds that these regulations are necessary to protect the youth of this community from the objectionable operational characteristics of such businesses by restricting their location. The City Council further finds that these regulations are necessary to protect the health, safety and general welfare of all residents of the community.

A. Limitations on Adult Entertainment Businesses. Adult entertainment businesses shall be subject to the following restrictions and no person shall cause or permit the establishment of any adult entertainment business contrary to said restrictions:

(1) No adult entertainment business shall be open for business between the hours of 12:00 midnight and 6:00 a.m.

(2) An adult entertainment business shall not be allowed within 500 feet of another existing adult entertainment business.

(3) An adult entertainment business shall not be located within 500 feet of any residentially zoned district.

(4) An adult entertainment business shall not be located within 2000 feet of a pre-existing school, public park or church.
(Subsection 4 – Ord. 333 – Oct. 18 Supp.)

(5) Measurements shall be made in a straight line, without regard to intervening structures or objects, from the main entrance of such adult entertainment business to the point on the property line of such other business, school, church, public park or areas zoned for residential use which is closest to the said main entrance of such adult entertainment business.

B. Prohibited Activities of Adult Entertainment Businesses.

(1) No adult entertainment business shall employ any person under 18 years of age.

(2) No adult entertainment business shall furnish any merchandise or services to any person who is under 18 years of age.

(3) No adult entertainment business shall be conducted in any manner that permits the observation of any model or any material depicting, describing or relating to specified sexual activities or specified anatomical areas by display, decoration, sign, show window or other opening from any public way or from any property not licensed as an adult use. No operator of an adult entertainment business or any officer, associate, member, representative, agent, owner, or employee of such business shall engage in any activity or conduct or permit any other person to engage in any activity of conduct in or about the premises which is prohibited by this chapter or any laws of the State.

(4) No part of the interior of the adult entertainment business shall be visible from any pedestrian sidewalk, walkway, street, or other public or semi-public area.

(5) An adult entertainment business shall post a sign at the entrance of the premises which shall state the nature of the business and shall state that no one under the age of eighteen (18) years is allowed on the premises. This section shall not be construed to prohibit the owner from establishing an older age limitation for coming on the premises.

(6) Except as hereinafter provided no person shall intentionally 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 located in any public place.

a. A woman's nipple, the areola thereof, or any portion of the female breast at or below the nipple thereof, except as necessary in the breast feeding of a baby.

b. The pubic hair, pubes, perineum, or anus of a male or female, the penis or scrotum of a male, or the vagina of a female, excepting such body parts of prepubescent infants of either sex.

C. Establishment of adult entertainment business shall include the opening of such business as a new business, the relocation of such business, or the conversion of an existing business location to any of the uses described in Section 165.03.

D. Special Use Permit. The adult entertainment businesses may be permitted subject to approval by the City Council after public hearing. In its determination upon the particular use at the location requested, the Council shall consider all of the following provisions:

(1) The proposed location, design, construction and operation of the particular use adequately safeguards the health, safety and general

welfare of persons residing or working in adjoining or surrounding property.

(2) Such use shall not impair an adequate supply of light and air to surrounding property.

(3) Such use shall not unduly increase congestion in the streets or public danger of fire and safety.

(4) Such use shall not diminish or impair established property values in adjoining or surrounding property.

(5) Such use shall be in accord with the intent, purpose and spirit of the Zoning Ordinance and the Comprehensive Plan of the City.

Applications for an adult entertainment business under the terms of this section shall be accompanied by evidence concerning the feasibility of the proposed request and its effect on surrounding property and shall include a site plan defining the areas to be developed for buildings and structure, the areas to be developed for parking, the locations and driveways and the points of ingress and egress, the location and height of walls, the location and type of landscaping, the location, size and number of signs and the manner of providing water supply and sewage treatment facilities.

6. Bulk Regulations. The following minimum requirements shall be observed subject to the modifications contained in Section 165.28.

Front Yard:	40 feet
Side Yards:	None required except when adjacent to an "R" District or street right-of-way line, in which case 25 feet.
Rear Yard:	35 feet
Maximum Height:	40 feet
Maximum Number of Stories:	No limitation

7. Minimum Open Space. The total land area devoted to open space and landscaping shall not be less than fifteen percent (15%) of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings; except ornamental structures included as part of the landscaping theme.

8. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

9. Site Plan Requirements. See Chapter 156 of this Code of Ordinances.

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165.26 M-2 HEAVY INDUSTRIAL DISTRICT. In the M-2 District, the following regulations shall apply, except as otherwise provided herein:

1. Principal Permitted Uses.

A. Uses permitted in the M-1A District, provided that no dwelling unit is permitted except those for employees having duties in connection with any premises requiring them to live on said premises, including families of such employees when living with them.

B. Any other use not otherwise prohibited by law; provided, however; the following uses shall be permitted subject to approval by the City Council after public hearing, and after report and recommendation by the Commission. The City Council shall consider all the following provisions in its determination upon the particular use at the location requested:

(1) The proposed location, design, construction, and operation of the particular use adequately safeguards the health, safety and general welfare of persons residing or working in adjoining or surrounding property.

(2) Such use shall not impair an adequate supply of light and air to surrounding property.

(3) Such use shall not unduly increase congestion in the streets, or public danger of fire and safety.

(4) Such use shall not diminish or impair established property values in adjoining or surrounding property.

(5) Such use shall be in accord with the intent, purpose, and spirit of this chapter and the Comprehensive Plan of the City. No permit will be issued in the M-2 District, other than those uses meeting the requirements listed in M-1A, except as specifically approved by the City Council.

2. Required Conditions.

A. The best practical means known for the disposal of refuse matter or water-carried waste, the abatement of obnoxious or offensive odor, dust, smoke, gas, noise, or similar nuisance shall be employed.

B. All principal buildings and all accessory buildings or structures, including loading and unloading facilities, shall be located at least one hundred (100) feet from any "R" District boundary except where adjoining a railroad right-of-way.

3. Bulk Regulations. The following requirements shall be observed subject to the modifications contained in Section 165.28.

Lot Area:	No minimum
Lot Width:	No minimum
Front Yard:	40 feet; when fronting on the right-of-way of a major thoroughfare shown on the Official Major Street Plan, the front yard shall be measured from the proposed right-of-way line.
Side Yards:	None required except when adjacent to an "R" District, in which case not less than 100 feet, as specified in subsection 2 of this section.
Rear Yard:	30 feet, unless adjoining a railroad, in which case no rear yard is required.
Maximum Height:	No limit

4. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

5. Site Plan Requirements. See Chapter 156 of this Code of Ordinances.

6. Minimum Open Space. The total land area devoted to open space and landscaping shall not be less than ten percent (10%) of the gross land area included in the building lot. Such open space shall be maintained as grassed and landscaped area and shall not include access drives, parking areas, structures or buildings; except ornamental structures included as part of the landscaping theme.

[The next page is 1015]

165.27 COS CONSERVATION AND OPEN SPACE DISTRICT.

1. Statement of Intent. The Conservation and Open Space District is intended to preserve and protect the heavily wooded areas, the stream banks and floodplains of the De Soto planning area from adverse future development. It is also intended that development of the floodplains be restricted to minimize the danger to life and property which results from development undertaken without full realization of such danger.

2. Principal Permitted Uses. Only the use of structures or land listed in this section shall be permitted in the Conservation and Open Space District.

A. Agriculture, truck gardening and nurseries, and the usual accessory buildings, but not including livestock feed lots or poultry farms or similar uses; provided that no permanent dwelling units shall be erected thereon.

B. Forests and forestry preserves.

C. Publicly owned parks, nature areas, playgrounds, golf courses and similar non-commercial recreational uses.

D. Any use erected or maintained by a public agency.

E. Public utility structures, subject to approval of the Board of Adjustment, except those utilities and structure constructed by the City.

F. Dumping of approved materials for land fill purposes; subject to prior approval of the Council and appropriate State agencies.

3. Permitted Accessory Uses. Accessory uses customarily incidental to a permitted principal use.

4. Bulk Regulations. The following minimum requirements shall be observed in the Conservation and Open Space District.

Front Yard:	50 feet
Side Yards:	50 feet
Rear Yard:	50 feet, unless adjoining a railroad, in which case no rear yard is required.
Maximum Height:	No limitation
Maximum Number of Stories:	No limitation

5. Off-Street Parking and Loading. Spaces for off-street parking and loading shall be provided in accordance with the provisions of Section 165.29.

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165.28 EXCEPTIONS, MODIFICATIONS AND INTERPRETATIONS.

1. Structures Permitted Above Height Limit. No permit will be issued for any structure above district height limits, except as specifically approved by the City Council.

2. Double Frontage Lots. Buildings on through lots and extending through from street to street shall provide the required front yard on both streets.

3. Rear and Side Yards Adjacent to Alleys. In computing the depth of a rear yard or the width of a side yard where the rear or side yard opens to an alley, one-half of the alley width may be included as a portion of the rear or side yard, as the case may be.

4. Other Exceptions to Yard Requirement. Every part of a required yard shall be open to the sky unobstructed with any building or structure, except for a permitted accessory building in a rear yard, and except for ordinary projections not to exceed twenty-four (24) inches, including roof overhang.

5. Front Yard Exceptions. In areas where some lots are developed with a front yard that is less than the minimum required for the district by this chapter or where some lots have been developed with a front yard greater than required by this chapter, the following rule shall apply. Any new building or addition in front thereof shall not be closer to the street right-of-way than the average of the front yard of the first building on each side within a distance of 200 feet measured from building to building, except as follows:

A. Buildings located entirely on the rear half of a lot shall not be counted.

B. No buildings shall be required to have a front yard greater than 50 feet.

C. If no building exists on one side of a lot within 200 feet of the lot in question, the minimum front yard shall be the same as the building on the other side.

6. Zoning of Annexed Areas. Any land annexed to the City after the effective date of this chapter shall be zoned A-1 Agricultural until the Commission and Council shall have studied the area and adopted a final zoning plan for the area in accordance with Section 165.34 of this chapter.

7. Exceptions to Prohibited Uses. The Council may, by special permit after public hearing, authorize the location of any of the following buildings or uses in any district from which they are prohibited by this chapter. Notice of time and place of hearing shall be given to all affected property owners at least ten (10) days in advance of hearing by placing notice in the United States Mail.

A. Any public building erected and used by any department of the city, township, county, state or federal government.

B. Airport or landing field.

C. Community building or recreation center.

D. Hospitals, non-profit fraternal institutions (provided they are used solely for fraternal purposes), and institutions of an educational, religious or philanthropic character, provided that the building shall be set back from all

yard lines a distance of not less than two (2) feet for each foot of building height but not less than the yard requirements for the district in which located.

E. Public cemetery.

Before issuance of any special permit for any of the above buildings or uses, the Council shall refer the proposed application to the Commission, which Commission shall be given forty-five (45) days in which to make a report regarding the effect of such proposed building or use upon the character of the neighborhood, traffic conditions, public utility facilities and other matters pertaining to the general welfare. No action shall be taken upon any application for a proposed building of use above referred to until and unless the report of the Commission has been filed; provided, however, if no report is received from the Commission within forty-five (45) days, it shall be assumed that the approval of the application has been given by the Commission.

8. Use of Existing Lots of Record. In any district where dwellings are permitted, a single-family dwelling may be located on any lot of record as of the effective date of the Zoning Ordinance irrespective of its area or width; provided however:

A. The sum of the side yard widths of any such lot or plot shall not be less than 20% of the width of the lot, but in no case less than 10% of the width of the lot or 5 feet, whichever is greater, for any one side yard.

B. The depth of the rear yard of any such lot need not exceed 20% of the depth of the lot, but in no case less than 20feet.

9. Water and Sewage Requirements. In any district in which residences are permitted, except the A-1 and AR Districts, and where neither public water supply nor public sanitary sewer is available, the minimum lot area shall be 20,000 square feet and the lot width at the building line shall be 100 feet. Provided, however, where a public water supply system is available the minimum lot area shall be 15,000 square feet. These requirements do not apply in subdivision developments providing private common water supply and sewage collection and disposal systems which have been approved by the Iowa Department of Natural Resources. In all districts where a proposed building, structure or use will involve the use of private sewage facilities, and public sewer and/or water is not available, the sewage disposal system and domestic water supply shall comply with all of the requirements and standards of the County Board of Health.

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165.29 PARKING AND LOADING AREAS.

1. Off-Street Loading Spaces Required. In any "C" or "M" District, in connection with every building or part thereof hereafter erected, having a gross floor area of 10,000 square feet or more, which is to be occupied by manufacturing, storage, warehouse, goods display, retail store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building, at least one off-street loading space plus one additional such loading space for each 20,000 square feet or major fraction thereof of gross floor area so used in excess of 10,000 square feet.

A. Each loading space shall be not less than 12 feet in width, and 40 feet in length.

B. Such space may occupy all or any part of any required yard or court space except where joining an "R" district, it shall be set back at least 25 feet and screen planted.

2. Off-Street Parking Area Required. In all districts, in connection with every industrial, commercial, business, trade, or institutional, recreational, or dwelling use, and similar uses, space for parking and storage of vehicles shall be provided in accordance with the following schedule:

A. Automobile sales and service garages – 5 parking spaces per 1000 square feet.

B. Banks, business and professional offices – 5 parking spaces per 1000 square feet.

C. Bowling alleys - 5 parking spaces for each alley.

D. Churches and schools – 1 space for each 8 seats in a principal auditorium. When no auditorium is involved, 1 space for every 2 employees.

E. Dwellings: single-family dwelling - 2 parking spaces accessible to the street; duplex family dwelling - 4 parking spaces accessible to the street; multi-family dwelling, 1 or 2 bedroom - 2 parking spaces per one or two-bedroom apartment. One garage parking space may be counted as a parking space in fulfillment of the parking requirements, provided there is no less than 1 open parking space for each one or two-bedroom apartment and 1 not reserved parking space for each five one or two-bedroom apartments.

F. Day care center - 1 parking space per 400 square feet of gross floor area.

G. Funeral homes, mortuaries - 1 parking space for each 5 seats in the principal auditorium.

H. Furniture and appliance stores, household equipment or furniture repair shops over 1,000 square feet of floor area – 5 parking spaces per 1000 square feet.

I. Hospitals - 1 parking space for each 4 beds.

J. Hotels, lodging houses - 1 parking space for each bedroom.

K. Manufacturing plants – 1 parking space for each 3 employees on the maximum working shift.

L. Restaurants, beer parlors, and night clubs over 1,000 square feet floor area – 10 spaces per 1000 square feet of gross indoor floor area and 3 parking spaces per 1,000 square feet of outdoor/patio seating with a 3-parking space minimum.

M. Retail stores, shops, etc., under 2,000 square feet of floor area – 5 parking space minimum.

N. Retail stores, supermarkets, etc. over 2,000 square feet of floor area – 5 parking spaces per 1000 square feet with a 5-space minimum.

O. Sports arenas, auditoriums, other than in schools - 1 parking space for each 6 seats.

P. Theaters, assembly halls with fixed seats - 1 parking space for each 4 seats.

Q. Wholesale establishments or warehouses - 1 parking space for every 400 square feet of gross floor area.

R. Off-street parking area is required for retail stores, convenience stores and automobile service stations combined, under 4,000 square feet actual building floor area - 1 space per 200 square feet of gross floor area floor area.

In case of any building, structure, or premises, the use of which is not specifically mentioned herein, requirements for a use which is so mentioned and to which said use is similar shall apply.

(Subsection 2 – Ord. 333 – Oct. 18 Supp.)

3. Parking Lots. Every parcel of land hereafter used as a public or private parking area, including a commercial parking lot, shall be developed and maintained in accordance with the following requirements:

A. No part of any parking space shall be closer than five (5) feet to any established street right-of-way or alley line. In case the parking lot adjoins an "R" District, it shall be set back at least 25 feet from the "R" District boundary and shall be effectively screen planted.

B. Any off-street parking area, including any commercial parking lot, shall be surfaced with asphalt or Portland cement binder pavement or such other permanent impervious surface as shall be approved by the Council.

C. Any lighting used to illuminate any off-street parking area, including any commercial parking lots, shall be shielded and so arranged as to reflect the light away from adjoining premises in any "R" District, and away from the traveled roadway of public streets. The C-2 district shall be exempt from the provisions of this subsection.

4. Off-street parking areas may be established in any "R" District that immediately joins a "C" or "M" District, provided such parking shall be accessory to and for use of one or more business or industrial establishments located in the adjoining "C" or "M" District; provided, however, such transitional use shall not extend more than 100 feet from the boundary of the less restricted zone. A 25-foot screen planted or wood fenced landscaped yard shall be maintained between said parking areas and adjoining lots in residential districts. Said screen planting or wood

fence shall be located between the parking area and the landscaped yard, shall obscure the activity, be at least six (6) feet in height and be maintained in good condition. A masonry wall or other suitable fence may be substituted for the wood fence. Parking areas shall be developed as follows:

A. No less than 10% shall be landscaped and continuously maintained.

B. Planting along the perimeter of a parking area, whether required for screening or general beautification will not be considered as part of the 10% interior landscaping.

5. Parking spaces required shall be provided in accordance with the following requirements:

A. Each required parking stall shall be not less than 9 feet in width and not less than 19 feet in length.

B. Maneuvering space required is the aisle width necessary to permit the safe and convenient parking of a motor vehicle and is based on the degree of angle parking provided. Aisles shall be provided as follows:

Degree of Angle Parking Provided	Aisle Width Required
00	12 feet
20	12 feet
30	12 feet
40	13 feet
45	13 feet
50	13 feet
60	18 feet
70	19 feet
80	24 feet
90	24 feet

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165.30 ADMINISTRATION AND ENFORCEMENT.

1. Administration Official. An administrative official designated by the Council shall administer and enforce this chapter. The administrative official may be provided with the assistance of such other persons as the Council may direct. If the administrative official finds that any of the provisions of this chapter are being violated, the official shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The administrative official shall order discontinuance of any illegal use of land, buildings, or structures; removal 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.

2. Building Permits Required. No building or other structure shall be erected, moved, added to or structurally altered without a permit therefor, issued by the administrative official. No work on such building or structure shall be done until a permit shall have been issued. No building permit shall be issued except in conformity with the provisions of this chapter, except after written order from the Board of Adjustment. (See Section 165.33 for schedule of fees.) The Council may, for good cause shown, waive the fee required herein where the building, structure, accessory building or fence is constructed by a charitable, educational, or religious organization for public purposes.

3. Application for Building Permit. All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any, and the location and dimensions of the proposed building or alteration. The application shall include such other information as lawfully may be required by the administrative official, including existing or proposed building or alteration; existing or proposed uses of the building and land; the number of families, housekeeping units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provide for the enforcement of this chapter. The administrative official shall have twelve (12) days excluding Sundays and legal holidays in which to accept or reject an application for building permits after the same has been submitted in proper form.

4. Certificates of Zoning Compliance for New, Altered, or Nonconforming Uses. It is unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, or converted, or wholly or partly altered or enlarged in its use or structure until a certificate of zoning compliance shall have been issued therefor by the administrative official stating that the proposed use of the building or land conforms to the requirements of this chapter. No nonconforming structure or use shall be maintained, renewed, changed, or extended until a certificate of zoning compliance shall have been issued by the administrative official. The certificate of zoning compliance shall state specifically wherein the nonconforming use differs from the provisions of this chapter, provided that upon enactment or amendment of this chapter, owners or occupants of nonconforming uses or structures shall have one year to apply for certificates of zoning compliance. Failure to make such application within one year shall be presumptive evidence that the property was in conforming use at the time of

enactment or amendment of the Zoning Ordinance. Certificates of zoning compliance shall be applied for coincidentally with the application for a building permit, and shall be issued within ten (10) days after the lawful erection or alteration of the building is completed in conformity with the provisions of this chapter. A temporary certificate of zoning compliance may be issued by the administrative official for a period not exceeding six (6) months during alterations or partial occupancy of a building pending its completion, provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public. The administrative official shall maintain a record of all certificates of zoning compliance, and copies shall be furnished upon request to any person. Failure to obtain a certificate of zoning compliance shall be a violation of this chapter.

5. Expiration of Building Permit. If the work described in any building permit has not begun within ninety (90) days from the date of issuance thereof, said permit shall expire; it shall be canceled by the administrative official, and written notice thereof shall be given to the persons affected. If the work described in any building permit has not been substantially completed within two (2) years after the date of issuance thereof, said permit shall expire and be canceled by the administrative official, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new building permit has been obtained.

6. Construction and Use to be as provided in Applications, Plans, Permits and Certifications of Zoning Compliance. Building permits or certificates of zoning compliance issued on the basis of plans and applications, approved by the administrative official authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter.

165.31 BOARD OF ADJUSTMENT.

1. Board Created. A Board of Adjustment is hereby established which shall consist of five (5) members. The terms of office of the members of the Board and the manner of their appointment shall be as provided by Statute.

2. Meetings. Meetings of the Board shall be held at the call of the Chairperson, and at such other times as the Board may determine. Such Chairperson, or in the Chairperson's absence, the acting Chairperson may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member on 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 immediately filed in the office of the Board and shall be a public record. The presence of three (3) members shall be necessary to constitute a quorum.

3. Appeals. Appeals to the Board may be taken by any person aggrieved, or by any official, department, board or bureau of the City affected by any decision of the administrative official. Such appeal shall be taken within ten (10) days by filing with the administrative official and with the Board a notice of appeal specifying the grounds thereof. The administrative official shall forthwith transmit to the Board all papers constituting the record upon which the action appealed from is taken. An appeal stays all proceedings in furtherance of the action appealed from, unless the

administrative official certifies to the Board after notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would, in the official's opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application and notice to the administrative official, and on due case shown.

4. Fee for Appeal. See Section 165.33 for schedule of fees.

5. Hearings, Notice. The Board shall fix a reasonable time for the hearing on the appeal, give public notice thereof as well as due notice to the parties in interest and decide the same within a reasonable time. At the hearing, any party may appear in person or by agent, or by attorney. Before an appeal is filed with the Board, the appellant shall pay a fee as set forth in Section 165.33.

6. Powers - Administrative Review. The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official in the enforcement of this chapter.

7. Powers - Special Exceptions. The Board shall permit the following exceptions to the District regulations set forth in this chapter subject to the requirements of this section:

A. Permit erection and use of a building or the use of premises or vary the height and the regulations in any location for a public service corporation for public utility purposes or purposes of public communication, which the Board determines, is reasonable and necessary for the public convenience or welfare.

B. Permit the extension of a use into a district where it would be otherwise prohibited in a case where a district boundary line is so located that a lot or plot is in more than one district.

C. Hear and decide only such other special exceptions as the Board is specifically authorized to pass on by the terms of this chapter; decide such questions as are involved in determining whether special exceptions should be granted; and grant special exceptions when in harmony with the purpose and intent of this chapter. A special exception shall not be granted by the Board unless and until:

(1) A written application for a special exception is submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested.

(2) Notice of public hearing shall be given at least ten (10) days in advance of public hearing. The owner of the property for which the special exception is sought or the owner's agent and any other affected property owners shall be notified by mail. Notice of hearing shall also be posted on the property for which a special exception is sought.

(3) The public hearing shall be held. Any party may appear in person, or by agent or attorney.

(4) The Board shall make a finding that it is empowered under the section of this chapter described in the application to grant the special exception and it will not adversely affect the public interest.

In granting any special exception the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the special exception is granted, shall be deemed a violation of this chapter. The Board may prescribe a time limit within which the action for which the special exception is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the special exception.

8. Powers - Variances. The Board shall authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter would result in unnecessary hardship. A variance from the terms of this chapter shall not be granted by the Board unless and until:

A. A written application for a variance is submitted demonstrating:

(1) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same district;

(2) That literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter;

(3) That the special conditions and circumstances do not result from the actions of the applicant;

(4) That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, structures, or buildings in the same district;

No nonconforming use of neighboring lands, structure, or buildings in the same district, and no permitted use of land, structures, or buildings in other districts shall be considered grounds for the issuance of a variance.

B. Notice of public hearing shall be given in advance of public hearing. The owner of the property for which the variance is sought or the owner's agent and any other affected property owners shall be notified by mail.

C. The public hearing shall be held. Any party may appear in person, or by agent or by attorney.

D. The Board shall make findings that the requirements of this section have been met by the applicant for a variance.

E. The Board shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

F. The Board shall further make a finding that the grant of the variance will be in harmony with the general purpose and intent of this chapter, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and

safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this chapter in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said District.

9. Decisions of the Board of Adjustment. In exercising the above-mentioned powers, the Board may, so long as such action is in conformity with the terms of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative official from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under this chapter, or to effect any variation in this chapter.

10. Appeals from Decision of the Board of Adjustment. Any taxpayer, or any officer, department, board or bureau of the City or any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to a 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 (30) days after the filing of the decision in the office of the Board. The court may reverse or affirm, wholly or in part, or may modify the decision brought up for review.

165.32 DUTIES ON MATTERS OF APPEAL. It is the intent of this chapter that all questions of interpretation and enforcement shall be first presented to the administrative official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the administrative official, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Statute. It is further the intent of this chapter that the duties of the Council in connection with this chapter shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this chapter. Under this chapter, the Council shall have only the duties of: (i) considering and adopting or rejecting proposed amendments or the repeal of the Zoning Ordinance, as provided by law, (ii) establishing a schedule of fees and charges as stated in Section 165.33 below, and (iii) considering applications for special permits for exceptions to prohibited uses as specified in Section 165.28 of this chapter.

165.33 SCHEDULE OF FEES.

1. The Council shall establish a schedule of fees, charges, and expenses and a collection procedure for certificates of zoning compliance, appeals, and other matters pertaining to this chapter. The schedule of fees shall be established by resolution and shall be posted in the office of the administrative official.

2. Costs incurred by the City of De Soto for review fees of the City Engineer and/or City Attorney; and reimbursement for publication charges when warranted due to excessive costs, shall be reimbursed to the City by the subdivider, person or agent of the person who filed the site plan, or by the party who filed the petition, or such party's agent. No certificate, special exception, or variance shall be issued unless or until such costs, charges, fees, or expenses have been paid in full, nor shall any action

be taken on proceedings before the Board of Adjustment unless or until preliminary charges and fees have been paid in full.

165.34 AMENDMENTS. The Council may, from time to time, on its own action or on petition, amend, supplement or change the boundaries or regulations herein or subsequently established. However, no such amendment, supplement, or change of boundaries or regulations shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. Such amendment, supplement, or change shall not become effective except by favorable vote of a majority of all the members of the City Council. In case, however, of a protest against such change signed by the owners of twenty percent (20%) or more either of the area of the lots included in such a proposed change, or by the owners of 20% or more of the property which is located within 200 feet of the boundaries of the property for which the change is proposed, such change shall not become effective except by the favorable vote of at least three-fourths (3/4) of all the members of the Council. Whenever any person desires that any amendment or change be made in this chapter, including the text and/or map, as to any property in the City, and there shall be presented to the Council a petition requesting such change or amendment and clearly describing the property and its boundaries as to which the change or amendment is desired, duly signed by the owners of 50% of the area of all real estate included within the boundaries of said tract as described in said petition, and in addition, duly signed by the owners of 50% of the area of all real estate lying outside of said tract but within 200 feet of the boundaries thereof (intervening streets and alleys not to be included in computing such 200 feet), it shall be the duty of the Council to vote upon such petition within a reasonable time after the filing of such petition with the Clerk. The Council shall, by resolution, establish a schedule of fees, charges, and expenses and a collection procedure for amendment to the Zoning Ordinance. The schedule of fees shall be posted in the office of the administrative official, and may be altered or amended only by resolution by the Council. Whenever any petition for an amendment, supplement, or change of the zoning regulations herein contained or subsequently established shall have been denied by the Council, then no new petition covering the same property, or the same property and additional property, shall be filed with or considered by the Council until one year shall have elapsed from the date of the filing of the first petition.

165.35 COMPLAINTS REGARDING VIOLATIONS. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the administrative official, who shall record properly such complaint, immediately investigate, and take action thereon as provided by this chapter.

165.36 ENFORCEMENT. All departments, officials, and employees of the City who are vested with the duty or authority to issue permits or licenses shall issue no such permit or license for any use, structure, or purpose if the same would not conform to the provisions of this chapter. Violation of the provisions of this chapter, or failure to comply with any of its requirements, shall constitute a simple misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall, in addition to any other penalty, pay all costs and expenses involved in the case. Each day that a violation of the provisions of this chapter continues shall be considered a separate offense. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided. Nothing herein contained shall prevent the City from taking such other lawful action as necessary to prevent or remedy any violation.

EDITOR'S NOTE

The following ordinances have been adopted amending the Official Zoning Map described in Section 165.04 of this chapter and have not been included as a part of this Code of Ordinances but have been specifically saved from repeal and are in full force and effect.

ORDINANCE NO.	DATE ADOPTED	ORDINANCE NO.	DATE ADOPTED

[The next page is 1065]

CHAPTER 166

SIGNS

166.01 Title
166.02 Definitions
166.03 Signs Permitted in All Zoning Districts
166.04 Signs Permitted in Specified Zoning Districts
166.05 Signs Prohibited in All Zoning Districts
166.06 General Sign Regulations
166.07 Interstate Oriented Signs
166.08 Sign Area Formulas

166.01 TITLE. This chapter shall be known and may be cited and referred to as the "Sign Ordinance" of the City of De Soto, Iowa, and shall be referred to herein as "this chapter."

166.02 DEFINITIONS. For the purpose of this chapter the following terms and words are defined.

1. "Sign" means any device designed to inform or attract the attention of persons not on the premises on which the sign is located; provided, however, the following are not to be included in the application of the regulations herein:

   A. Signs not exceeding one square foot in area and bearing only property numbers, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations;

   B. Flags and insignia of any government except when displayed in connection with commercial promotion;

   C. Legal notices; identification, informational or directional signs erected, approved, or required by governmental bodies;

   D. Integral, decorative, or architectural features of buildings, except letters, trademarks, moving parts or moving lights;

   E. Signs directing and guiding traffic and parking on private property, and bearing no advertising matter and not exceeding four square feet in area.

2. "Sign area" means the surface area of a sign and is computed as including the entire area within a regular geometric form or combinations of regular geometric forms comprising all of the display area of the sign and including all of the elements of the matter displayed. Frames and structural members not bearing advertising matter are not included in computation of the surface area, except where such frames and structural members are used as an integral primary or subsidiary portion of the graphic, literal, or numerical display, such as forming a picture frame to facilitate continuity or providing contrasts to emphasize the intended purpose of the sign.

3. "Sign, billboard" includes all structures, regardless of the materials used in the construction of the same, that are erected, maintained, or used for public display of posters, painted signs, wall signs (whether the structure is placed on the wall or painted on the wall itself), and pictures or other pictorial reading materials which advertise a business or attraction which is not carried on or manufactured in or upon the premises upon which said signs or billboards are located.

4. "Sign, exterior" means a sign that directs attention to a business, profession, service, product, or activity sold or offered upon the premises where such a sign is located. An exterior sign may be a sign attached flat against a building or structure, or

projecting out from a building or structure or erected upon the roof of a building or structure. An exterior sign may include any of the following:

A. A "fascia sign" is a single-faced building or wall sign that is directly attached to and parallel to its supporting wall.

B. A "projecting sign" is a double-faced building or wall sign projecting at right angles to its supporting wall.

C. A "marquee sign" is a sign attached to and contained within the perimeter of the face or valance of a marquee.

D. A "roof sign" is a sign attached upon or above a roof or parapet of a building.

5. "Sign, freestanding or post" means any sign erected or affixed in a rigid manner to one or more poles, posts, or the ground, and which carries any advertisement strictly incidental and subordinate to a lawful use of the premises on which it is located, including signs or sign devices indicating the business transacted, services rendered, or goods sold or produced on the premises by an occupant thereof. A freestanding or post sign may also include the following:

A. A "directory sign" is a sign containing the name of a building, complex, or center and two or more identification signs or panels of the same size, color, and general design, limited to one identification sign per occupant.

B. A "monument sign" is a structure, built on grade, which forms an integral part of the sign or its background.

6. "Sign, home occupation" means one unlighted sign not over three square feet in area attached flat against the dwelling and displaying only the occupant's name and occupation, and advertising the presence or conduct of the home occupation.

7. "Sign, institutional bulletin board" means an on-premises sign containing a surface area upon which is displayed the name of a religious institution, school, library, public building, community center, or similar institution and the announcement of its services or activities.

8. "Sign, landscape" means signage identifying the name of a building, complex, or development included on a wall or landscape feature including planter beds, fountains, or decorative walls.

9. "Sign, temporary" means a temporary sign is any sign not permanently attached to the ground, wall, or building, and intended to be displayed for a short and limited period of time.

166.03 SIGNS PERMITTED IN ALL ZONING DISTRICTS. The following signs are permitted in all zoning districts.

1. Temporary Signs.

A. Real Estate. Signs advertising the sale, rental, or lease of the premises or part of the premises on which the signs are displayed. One non-illuminated sign, not to exceed eight square feet, is permitted on each premises. Such signs shall not extend higher than four feet above grade level or be closer than 10 feet to any property line unless located on the wall of a building. Such signs shall be removed within seven days after the disposition of the premises.

B. Construction. Signs identifying the architect, engineer, contractor, or other individuals involved in the construction of a building and such signs announcing the character of the building enterprise or the purpose for which the building is intended but not including product advertising. Sign advertising for new incoming businesses will be allowed provided that a business has been issued a building permit. One non-illuminated sign, not exceeding 50 square feet, is permitted per street frontage. Such sign shall not extend higher than 10 feet above grade level or be closer than 10 feet to any property line unless located on the wall of a building on the premises or on a protective barricade surrounding the construction. Such signs shall be removed within one week following completion of construction.

C. Political Campaign. Signs announcing candidates seeking public political office or pertinent political issues. Such signs shall be confined to private property and shall be removed within one week following the election to which they pertain.

D. Street Banners. Banners advertising a public event, provided that specific approval is granted under regulations established by the City Council.

E. Seasonal Decorations. Signs pertaining to recognized national holidays and national observances.

F. Personal Announcement and Celebration. Signs announcing births, anniversaries, weddings, and similar celebrations.

G. Special Events. Signs advertising or announcing a special event, usually a public event.

Banners, balloons, and posters in association with any of the above categories are subject to approval by the Code Compliance Officer.

2. Public Signs. Signs of a non-commercial nature and in the public interest, erected by or upon the order of a public officer in the performance of public duty, such as safety signs, danger signs, trespassing signs, traffic signs, memorial plaques, signs of historical interest and other similar signs, including signs designating hospitals, libraries, schools, and other institutions or places of public interest or concern.

3. Temporary Directional Signs Placed By City. Signs may be erected by the City of a size not greater than 4 feet by 4 feet informing the public of means of access to areas within the City to which normal access has been denied due to highway construction.

4. Integral Signs. Signs for churches or temples, or names of buildings, dates of erection, monumental citations, commemorative tablets, and other similar signs when carved into stone, concrete, or other building material or made of bronze, aluminum, or other permanent type of construction and made an integral part of the structure to which they are attached.

5. Window Signs. Signs which are displayed inside of a window or within a building; provided however, lighted window signs are permitted only in those districts where lighted signs are permitted.

6. Monument Signs. Ground signs that do not have any exposed pole or pylon. Such sign has a base of brick or some similar hard surface material and said material

borders the sign on at least three sides. The following freestanding monument identification signs are permitted within the following zoning districts by use:

Zoning District	Maximum Size (square feet)		Maximum Height (feet)	Minimum Setback (feet)
	Total/Sign Portion	Total		
A-1		80	10	20
AR*		40	10	15
C-1	120/60		15	15
C-1A	120/60		15	15
C-2	120/60		15	15
C-3	120/60		15	15
C-4	120/60		15	15
M-1	120/60		10	20
M-1A	120/60		10	20
M-2	120/60		10	20
R-1*	120/60		10	15
R-2*	120/60		10	15
R-3*	120/60		10	15
R-4*	120/60		10	15
R-5*	120/60		10	15
R-6*	120/60		10	15

* In areas so designated, the placement and erection of monument signs is restricted to entry signs placed in the first lot upon entry into a new development, no other exceptions will be allowed or allowances made. Monument signs within developments are restricted in content to only allow for the name of the development and such artwork as may be in keeping with the residential nature of the area in question.

The Code Compliance Officer has the authority to classify a proposed sign as incompatible to the already existing environment.

166.04 SIGNS PERMITTED IN SPECIFIED ZONING DISTRICTS.

1. A-1 Agricultural District.

   A. One board or sign not to exceed 32 square feet in area referring to the construction, lease, hire, or sale of a building, premises, or lots; which sign shall refer to property on which the sign is located, and shall be removed as soon as the premises are sold or leased or construction completed.

   B. Signs, not exceeding 10 square feet in area, identifying the premises or indicating the product grown or material and equipment used on the premises.

2. R-1 Single Family Residential District.

   A. One board sign not to exceed 50 feet in area referring to the construction, lease, hire, or sale of a building, premises, or subdivision lots, which sign shall refer to property on which the sign is located and shall be removed as soon as the premises are sold or leased or construction completed.

   B. Institutional bulletin board signs.

   C. One freestanding monument identification sign shall be permitted for each subdivision or complex.

(1) The sign may be two-sided. The monument shall not have a total surface in excess of 120 square feet on any side, and not more than two sides of said sign shall be used for advertising purposes. The maximum height shall be 10 feet, and the maximum width shall be 12 feet.

(2) The sign must have a brick or stone base that measures at least 15% of the total height with a one-foot minimum. The sign can be entirely or partially surrounded by brick or stone with the minimum of one-foot coverage on three sides. The sign portion must not exceed 70% of the total area.

(3) If a development has access on more than one street a second sign will be permitted, provided that frontage exceeds 150 feet. The second sign must measure less than one-third (1/3) of the total dimension of the main monument sign.

3. R-2 Single-Family Residential District. Signs are permitted in this district as limited by R-1 District regulations.

4. R-3 Multi-Family Residential District.

A. One board sign not to exceed 50 feet in area referring to the construction, lease, hire, or sale of a building, premises, or subdivision lots, which sign shall refer to property on which the sign is located, and shall be removed as soon as the premises are sold or leased or construction completed.

B. Institutional bulletin board signs.

C. One non-lighted sign not to exceed 12 square feet in total area attached flat against the principal structure, indicating the name of the premises and/or the names of the occupants, shall be permitted.

D. One freestanding monument identification sign shall be permitted for each lot, or one sign for each 300 feet of street, whichever is greater, subject to provisions hereinafter specifically set out.

(1) Such a sign may be attached to the building if it is in compliance with subsection 10(A) of this section, or such sign may be located within any required yard on a directory sign.

(2) The sign may be two-sided. The monument shall not have a total surface in excess of 120 square feet on any side, and not more than two sides of said sign shall be used for advertising purposes. The maximum height shall be 15 feet, and the maximum width shall be 12 feet.

(3) The sign must have a brick or stone base that measures at least 15% of the total height with a one-foot minimum. The sign can be entirely or partially surrounded by brick or stone with the minimum of one-foot coverage on three sides. The sign portion must not exceed 70% of the total area.

(4) If a development has access on more than one street a second sign will be permitted, provided that frontage exceeds 150 feet. The second sign must measure less than one-third (1/3) of the total dimension of the main monument sign.

5. R-4 Multi-Family Residential District. Signs are permitted in this district as limited by R-3 District regulations.

6. R-5 Planned Unit Development District. Such signs as shall be specifically included in the Final Development Plan approved by the City Council.

7. R-6 Mobile Home Residential District. Signs are permitted in this district as limited by R-3 District regulations.

8. C-1 Community and Highway Service Commercial District.

A. Fascia/Wall Signs.

(1) Sign Area Allowed. One square foot of sign area may be erected for every lineal foot of a building front that has a setback of 250 feet or less from the lot line. For a setback of 251 feet to 500 feet, one and one-half square feet of sign area may be erected per lineal foot of building front. For a setback greater than 500 feet, two square feet of sign area may be erected per lineal foot of building front. Setbacks shall be measured from the front of said building. The front of said building shall be that wall that contains the main entry. If the front of a building faces away from the street frontage, a wall sign may be erected on the rear or sidewall of said building at a rate of one-half the lineal footage of said wall. At no time shall more than two walls be used to compute allowable signage.

(2) Number of Signs Allowed. A maximum of two signs will be allowed per business with a maximum of one sign per wall. Sign size will be limited by the regulations stated above.

(3) Letters, Symbols, and Logos. Under no circumstances will a letter, symbol, or logo dimension greater than six feet be allowed, except any use that occupies in excess of 100,000 square feet of building area shall be allowed to have individual letters not to exceed eight feet in height.

(4) Signs which project out from the building more than 18 inches must be at least 12 feet above grade and may project a maximum of 6 feet. No sign shall project more than 4 feet above the roofline or parapet where one exists.

B. Board Sign. One board sign not to exceed 50 feet in area referring to the construction, lease, hire, or sale of a building, premises, or subdivision lots, which sign shall refer to property on which the sign is located, and shall be removed as soon as the premises are sold or leased or construction completed.

C. Monument Signs.

(1) One freestanding monument identification sign shall be permitted for each lot, or one sign for each 300 feet of street, whichever is greater, subject to provisions hereinafter specifically set out. Businesses that have frontage on more than one street will be permitted the use of a second sign provided it measures less than one-third (1/3) of the total dimension of the monument sign.

(2) Such a sign may be attached to the building if it is in compliance with subsection 10(A) of this section; or such sign may be located within any required yard on a directory sign.

(3) The sign may be two-sided. The monument shall not have a total surface in excess of 120 square feet on any side, and not more than two sides of said sign shall be used for advertising purposes. The maximum height shall be 15 feet, and the maximum width shall be 12 feet.

(4) The sign must have a brick or stone base that measures at least 15% of the total height with a one-foot minimum. The sign can be entirely or partially surrounded by brick or stone with the minimum of one-foot coverage on three sides. The sign portion must not exceed 70% of the total area. The sign portion must not exceed 80 square feet in any case.

(5) For lots that have more than one business, a sign of 80 square feet will be allowable with the entire monument sign having a maximum of 160 square feet.

D. Prohibited Signs. Signs that are composed of wood material or signs with metal as its primary material and any sign surface with letters painted upon a panel or wall area shall be prohibited.

E. Illumination. Signs shall be illuminated by internal fixtures or externally with a constant level of light maintained throughout the sign. Reflectors shall be provided with proper glass or plastic lenses concentrating the illumination upon the area of the sign as to prevent glare upon the street or adjacent property. Illumination shall be no greater than one foot-candle in intensity when measured from the property bounds, and all ground lighting shall be concealed from view by landscape plantings.

F. Entry Monuments. A commercial development such as an office park or shopping center may erect one monument with the name of the building, complex, or center. To qualify for use of this sign, the development must be at least 40 acres (otherwise the monument identification sign requirements still apply). The allowable sizes are as follows:

Acres	Maximum Square Footage
40-79	150
80-119	200
120-159	250
160 and greater	300

The maximum allowable size is 300 square feet, in any case. These monuments must be made up of at least 50 percent brick, stone, or similar material. The sign may be erected in two places so as to surround an entryway; however, the square footage of the two pieces, when summed, must fit within the above requirements.

G. Business Advertising, Opening and Closing. Banners, balloons, posters and signs advertising an opening or closing of business, subject to approval by the Code Compliance Officer. Such signs may only remain in

place for four weeks and no more than one time per year per opening or closing.

H. Business and Public Advertising, Special Events. Banners, balloons, posters, and signs advertising a special event subject to approval by the Code Compliance Officer. Such signs may only remain in place for two weeks and no more than four times per year.

The Code Compliance Officer has the authority to classify a proposed sign as incompatible to the already existing environment.

9. C-1A Neighborhood Commercial District. Signs are permitted in this district as limited by C-1 District regulations.

10. Downtown District. The regulations specified under this district will also apply to the C-2 District and the adjacent C-1 and C-1A Districts.

A. Fascia/Wall Signs.

(1) Sign Area Allowed. One square foot of sign area may be erected for every lineal foot of a building front that has a setback of 250 feet or less from the lot line. For a setback of 251 feet to 500 feet, one and one-half square feet of sign area may be erected per lineal foot of building front. For a setback greater than 500 feet, two square feet of sign area may be erected per lineal foot of building front. Setbacks shall be measured from the front of said building. The front of said building shall be that wall that contains the main entry. If the front of a building faces away from the street frontage, a wall sign may be erected on the rear or sidewall of said building at a rate of one-half the lineal footage of said wall. At no time shall more than two walls be used to compute allowable signage.

(2) Number of Signs Allowed. A maximum of two signs will be allowed per business with a maximum of one sign per wall. Sign size will be limited by the regulations stated above.

(3) Letters, Symbols, and Logos. Under no circumstances will a letter, symbol, or logo dimension greater than four feet be allowed.

(4) No sign shall project out from the building more than 12 inches. No sign shall project above the roofline or parapet where one exists.

(5) If a building houses more than one business, then more than one sign may be erected, provided the total size of all signs is still within the requirements as set forth above.

B. Projecting Signs.

(1) One projecting sign shall be allowed per establishment.

(2) Projecting signs must not exceed nine square feet. The maximum projection beyond the face of the building will be four feet.

(3) The maximum height to the top of the sign, as measured from the sidewalk elevation at the building line on the façade to which the sign is attached, shall not exceed 12 feet. The lower edge of such a

sign must be at least seven feet, six inches above the sidewalk directly beneath the sign.

(4) Two-dimensional signs shall have both faces parallel, vertical and at right angles to the building line.

C. Monument Signs.

(1) One freestanding monument identification sign shall be permitted for each lot, or one sign for each 150 feet of street, whichever is greater, subject to provisions hereinafter specifically set out. Businesses that have frontage on more than one street will be permitted the use of a second sign provided it measures less than one-third (1/3) of the total dimension of the principle monument sign.

(2) The sign may be two-sided. The monument shall not have a total surface in excess of 30 square feet on any side, and not more than two sides of said sign shall be used for advertising purposes. The maximum height shall be six feet, and the maximum width shall be six feet.

D. Canopies, marquees, and awnings may contain signage provided the following requirements are met:

(1) If signage is parallel to the building façade, its area shall be deducted from the maximum allowable area of fascia/wall signs.

(2) If at right angles, it shall substitute for all other projecting signs.

E. One board sign not to exceed 20 square feet in area referring to the construction, lease, hire, or sale of a building, premises, or subdivision lots; such sign shall refer to property on which the sign is located, and shall be removed as soon as the premises are sold or leased or construction completed.

F. Illumination signs shall be illuminated by internal fixtures or externally with a constant level of light maintained throughout the sign. Reflectors shall be provided with proper glass or plastic lenses concentrating the illumination upon the area of the sign as to prevent glare upon the street or adjacent property. Illumination shall be no greater than one foot-candle in intensity when measured from the property bounds, and all ground lighting shall be concealed from view by landscape plantings.

G. Business Advertising, Opening and Closing. Banners, balloons, posters, and signs advertising an opening or closing of business subject to approval by the Code Compliance Officer. Such signs may only remain in place for four weeks and no more than one time per year per opening or closing.

H. Business and Public Advertising, Special Events. Banners, balloons, posters, and signs advertising a special event, subject to approval by the Code Compliance Officer. Such signs may only remain in place for two weeks and no more than four times per year.

I. Sign materials will not be limited; however, signage should be professional in appearance and should fit in with the building and surroundings in the area.

J. Prohibited Signs. Unless otherwise provided for in this chapter, Section 166.05 of this chapter (Signs Prohibited in all Districts) shall apply.

K. All signs that advertise a product or service must be inside the business or inside the window area (within the building).

L. Appeal. Any differentiation from the items set forth in this chapter may be brought before the Board of Appeals.

11. C-3 Planned Commercial Development Regulations. Signs are permitted in this district as limited by C-1 District regulations.

A. On-premises roof signs shall be permitted to a maximum of 150 square feet. The back of said sign shall be effectively shielded from public view by a building wall, by backing the sign against another sign face, or by grouping such signs in clusters to conceal the exposed backs. All roof signs must adhere to the height limitations of this district.

B. The total area of all signs pertaining to the business conducted in any building shall not exceed a total area of 200 square feet.

12. C-4 Office Park Commercial District.

A. Signs are permitted in this district as limited by C-1 District regulations; in C-4 districts, however, the monument may not be illuminated.

B. In addition, one non-illuminated nameplate not over four square feet in area shall be permitted for each individual business or service and/or person engaged in a business or profession within the building. Said signs may be attached to the building or be located within any required yard on a directory sign.

13. M-1 Light Industrial District. Signs are permitted in this district as limited by C-1 District regulations.

14. M-1A Limited Industrial District. Signs are permitted in this district as limited by C-1 District regulations.

15. M-2 Heavy Industry District. Signs are permitted in this district as limited by C-1 District regulations.

16. Interstate Corridor Signs.

A. Interstate/freeway sign identifies the name of an, office park, commercial park, industrial park, or single tenant user. Interstate/freeway signs must have a brick or stone base that preserves largely the same profile from interstate/road grade to bottom edge of sign. The sign face shall be no further than six inches away from the base.

B. Size of Sign. The total area of a sign shall be actual square footage of one sign face. Dual faced signs may be permitted with the maximum square footage permitted on each side. The maximum size of an interstate/freeway sign shall not exceed 120 square feet.

C. The maximum height of an interstate/freeway sign shall not exceed 30 feet above interstate/road grade with the minimum height set at 15 feet. Refer to monument sign regulations if the sign height falls under the minimum height stated above. The minimum brick or stone allotment for the

base of the sign shall equal or exceed 40 percent of the width of the sign with the minimum base width of three feet.

D. Signs that are composed of wood material or signs with metal as its primary material and any sign surface with letters painted upon a panel or wall area are prohibited.

E. Illumination signs shall be illuminated by internally fixtures or externally with a constant level of light maintained throughout the sign. Reflectors shall be provided with proper glass or plastic lenses concentrating the illumination upon the area of the sign as to prevent glare upon the street or adjacent property. Illumination shall be no greater than one foot-candle in intensity when measured from the property bounds, and all ground lighting shall be concealed from view by landscape plantings.

F. A tract must have frontage adjacent to the interstate right-of-way to qualify under this chapter.

G. Minimum interstate sign setback shall be 15 feet from interstate right-of-way.

H. Sign Allotment. On lots that have interstate frontage with an adjacent roadway and more than one business shall be permitted a monument sign of 300 total square feet and 160 square feet of sign portion. The sign may not be higher than 30 feet, and not wider than 10 feet.

I. Number of Signs. Land adjacent to the interstate will be allowed one sign per lot. Lots that have interstate frontage with another bordering roadway will be allowed one monument sign adjacent to that particular roadway given the sign size is one-third (1/3) of the total dimension of a monument sign, referring to the regulations set in Section 166.03(6) of this chapter.

166.05 SIGNS PROHIBITED IN ALL ZONING DISTRICTS.

1. Obsolete Signs. Signs that advertise an activity, business, product, or service no longer conducted on the premises on which the sign is located.

2. Banners, Balloons, Posters. Signs which contain or consist of banners, balloons, posters, pennants, ribbons, streamers, spinners, or other similarly moving devices, except as specifically provided in Section 166.03 hereof. These devices when not part of any sign are also prohibited.

3. Portable Signs. Commercial signs that are not permanently anchored or secured to either a building or the ground.

4. Off-Premises Signs on Public Property. Off-premises signs located on public property that is being used for public purposes.

5. Off-Premises Signs. Signs advertising a use not conducted upon the lot where the sign is located.

6. Flashing Signs. No flashing, blinking, or rotation lights are permitted for either permanent or temporary signs, except time and temperature signs and brief public announcement signs.

7. Moving Signs. No sign shall be permitted any part of which moves by any mechanical or electronic means.

8. Painted Wall Signs. Off-premises signs painted on building walls for commercial purposes.

9. Projecting Signs. Signs as defined in Section 166.02(4)(B).

10. Pole Signs. Except as specifically permitted, no pole sign shall be permitted within the City.

11. Visibility at Intersections in Any Districts. On any corner lot in any district, no sign shall be erected, placed, or allowed to be situated in such a manner as materially to impede vision between a height of two and one-half and ten feet above the centerline grades of the intersecting streets in the area bounded by the street lines of such corner lots and a line joining points along said street lines 25 feet from the point of intersection of right-of-way lines.

166.06 GENERAL SIGN REGULATIONS.

1. Conformance Required. Except as may be hereinafter specified, no sign shall be erected, placed, maintained, converted, enlarged, reconstructed, or structurally altered which does not comply with all of the regulations established by this chapter.

2. Maintenance. All signs shall be maintained in a good state of repair, including (but not limited to) the structural components, the lighting if any, the portion attaching the sign to the ground or structure, and the surface features.

3. Nonconforming Signs. Where a sign exists at the effective date of adoption or amendment of this chapter that could not be built under the terms of this chapter by reason of restrictions on area, use, height, setback, or other characteristics of the sign or its location on the lot, such sign may be continued so long as it remains otherwise lawful, subject to the following provisions:

A. No such sign may be enlarged or altered in a way that increases its nonconformity; however, reasonable repairs and alterations may be permitted.

B. Should such sign be destroyed by any means to an extent of 50 percent or more of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

4. Permit Required. A sign permit, signed by the owner and tenant, and approved by the administrative official, shall be required before the erection, construction, alteration, placing, or locating of all signs conforming with this chapter.

5. Permit Not Required. A permit shall not be required for repainting without changing permanent wording, composition, or colors, or for non-structural repairs.

6. Plans. A copy of plans and specifications shall be submitted to the administrative official for each sign regulated by this chapter. Such plans shall show sufficient details about size of the sign, location, and materials to be used and such other data as may be required for the administrative official to determine compliance with this chapter.

7. Appeal. Any person or persons aggrieved by the decision of the administrative official to approve or disapprove a sign permit, as provided by this chapter, may appeal such decision to the Board of Adjustment.

166.07 INTERSTATE ORIENTED SIGNS. There shall be permitted one additional on-premises sign for all lots between Spruce Street and Interstate 80. The following standards and regulations shall be applied:

1. Interstate oriented signs shall only be permitted for lots within the Commercial Zoning District.

2. Interstate oriented signs shall not exceed 80 feet above grade level at the base of the sign structure. The signs shall also have a clear open space of not less than 10 feet between the baseline of the sign and the grade level of the sign structure.

3. Sign face area shall not exceed 1,200 square feet in total, and each individual sign placed upon each structure shall not exceed 600 square feet. See Section 166.08, Sign Area Formulas.

4. Interstate oriented signs shall have a minimum setback from any public right-of-way of 50 feet and shall meet the set back requirements in the Commercial Zoning District for a primary structure.

5. Any proposed Interstate oriented sign shall first be reviewed by the Planning and Zoning Commission.

166.08 SIGN AREA FORMULAS. The area of a sign is determined by the Zoning Administrator, using actual dimensions where practical or approximate dimensions when irregularity of a sign shape warrants. The area of each sign type is to be measured with either Formula A or Formula B as noted below.

1. Formula A. The sign area shall be the sum of the area of two (2) contiguous rectangles or squares that enclose the extreme points or edges of all copy, logos, and symbols of said sign.

2. Formula B. The sign area shall be the area of one rectangle, square, circle, or oval that encloses the extreme edges of all areas where copy may be placed on a sign. This area does not include structural or architectural features of the sign where copy will not be located.

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CHAPTER 170

SUBDIVISION REGULATIONS

170.01 Purpose and Jurisdiction
170.02 Administration
170.03 Definitions
170.04 Pre-application Procedures
170.05 Preliminary Plat Procedure
170.06 Final Plat Procedure
170.07 Pre-application Plans and Data
170.08 Preliminary Plat Requirements
170.09 Final Plat Requirements
170.10 Subdivision Design Standards
170.11 Required Improvements
170.12 Variances
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170.15 Violation; Penalty
170.16 Development Application Park Land Dedication

170.01 PURPOSE AND JURISDICTION. The purpose of this chapter is to provide regulations and standards to guide land subdivision in the City and, pursuant to Section 354.9 of the Code of Iowa, in the area within two (2) miles of any City limit line in order to promote health, safety, convenience, and general welfare of the City. This chapter shall be administered to insure the orderly growth and development and to insure adequate provision for circulation, utilities, and services. All land in a subdivision shall be automatically zoned Residential in compliance with the Zoning Ordinance.

170.02 ADMINISTRATION. The provisions of this chapter shall be administered by the Planning and Zoning Commission of the City. Plats shall be reviewed by the Commission, after which the Commission shall submit its recommendations and the plats to the Council, which shall have the final power to approve or disapprove the application.

170.03 DEFINITIONS. For the purpose of this chapter, the word "building" includes the word "structure." All other words shall carry their customary meanings, except as specifically defined herein.

1. "Administrative officer" means the City official appointed by the Council to assist with the administration of this chapter.

2. "Alley" means a right-of-way providing a secondary means of access to the side or rear of those properties whose principal frontage is on some other street.

3. "Arterial street" means a public right-of-way with a high degree of continuity which serves the movement of large volumes of traffic between various districts.

4. "Building line" means a line designating the allowable proximity of a building to an adjacent street, alley or property line.

5. "Collector street" means a street which carries traffic from minor streets to an arterial, including the principal entrance streets of a residential development and streets for basic circulation within such a development.

6. "Commission" means the Planning and Zoning Commission of the City.

7. "Cul-de-sac" means a minor street having one open end and being permanently terminated at the other end by a vehicular turnaround.

8. "Easement" means a grant by a property owner of the use of land for a specific purpose.

9. "Final plat" means a map or plan of record of a subdivision and any accompanying material.

10. "Half street" means a street bordering one or more property lines of a tract of land in which the developer has dedicated only part of the ultimate right-of-way width.

11. "Lot" means a portion of a subdivision or other parcel of land intended as a unit for the purpose of transfer of ownership or for building development.

12. "Marginal access street" means a minor street which is parallel and adjacent to an arterial street, and which provides access to abutting properties and protection from through traffic.

13. "Minor street" means a street of limited continuity used primarily for access to abutting properties and the local needs of a neighborhood.

14. "Pedestrian way" means right-of-way across or within a block for use by pedestrian traffic whether designated as a pedestrian way or a crosswalk or other.

15. "Preliminary plat" means a tentative map or plan of a proposed subdivision.

16. "Protective covenants" means contracts entered into between private parties and which constitute a restriction on the use of all private property within a subdivision for the benefit of property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

17. "Roadway" means the developed portion of a street available for vehicular traffic.

18. "Street" means public right-of-way which affords primary means of access by pedestrians and vehicles to abutting properties.

19. "Subdivider" means any person who undertakes the subdivision of land as defined herein.

20. "Subdivision" means the division of a parcel of land into three or more lots or parcels for the purpose of transfer of ownership or building development, or if a new street is involved, any division of a parcel of land, provided that the division of land for agricultural purposes into lots or parcels of 10 acres or more and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land subdivided. A subdivision is calculated from an original parcel of land and cannot be sold in separate parcels to circumvent the three or more lot requirement whether such transfer of ownership is immediate or future.

170.04 PRE-APPLICATION PROCEDURES.

1. Before subdividing any tract of land and previous to the filing of an application for conditional approval of the preliminary plat, the subdivider should meet with the Commission and discuss plans. Plans and data should be presented to the Commission as specified in Section 170.07. This step does not require formal application, fee or filing of plat with the Commission.

2. Either at the time of meeting or within 15 days after such meeting and discussion, the Commission shall inform the subdivider of preliminary comments indicating the official opinions of the Commission on the applicable project. After

that, the project documents should be revised in order to appear in front of the Commission again. Then, within 15 days after the second meeting or review of the revised plans and data, as submitted or as modified, the Commission will notify the applicant if the project does or does not meet the objectives of these regulations. If the Commission finds the plans and data do not meet the objectives of these regulations, it shall express its reasons therefor.

(Ord. 331 – Oct. 18 Supp.)

170.05 PRELIMINARY PLAT PROCEDURE. On reaching conclusions informally, as recommended in Section 170.04 above, regarding the subdivider's general program and objectives, the subdivider shall cause to be prepared a preliminary plat, together with improvement plans and other supplementary material as specified in accordance with the following:

1. Plat Submitted. At least four prints of the preliminary plat together with four completed application forms for preliminary approval shall be submitted to the administrative officer at least two weeks prior to the Commission meeting at which consideration is desired. The administrative officer shall immediately refer two copies of said plat to the Secretary of the Commission and one copy to the Mayor upon receipt of a preliminary plat.

2. Flood Lands. No land shall be approved for subdivision which is subject to periodic flooding or which contains extremely poor drainage facilities. However, if the subdivider agrees to make improvements which will, in the opinion of the Commission, make the area completely safe for occupancy and provide adequate drainage, the preliminary plat may be approved.

3. Notice of Meeting. The Commission shall notify the owner or subdivider as to the time and place of the meeting at which the plat and plan will be studied. The Commission may direct that the owner or subdivider attend any deliberation on the submitted plat.

4. Commission Action. The Commission shall study and act on the preliminary plat and plans in regard to street layout and the provision of water and sewage and make recommendations on these aspects, all to be accomplished within 45 days after submission to the administrative officer. If the Commission disapproves a plat, the reasons for disapproval shall be remedied prior to further consideration. The preliminary plat shall not be approved until the plans and specifications for necessary improvements are acceptable to the Commission.

5. Council Action. If the Commission acts favorably on a preliminary plat, a notation to that effect shall be made on the plat above the signature of the Chairperson and Secretary, and it shall be referred to the Council for action. The Council shall act within 30 days. Its action shall be noted on the plat, signed by the Mayor, attested to by the Clerk and the plat shall be returned to the subdivider for compliance with final plat requirements.

6. Conditional Approval. Conditional approval of a preliminary plat shall confer upon the applicant the following rights for a two-year period from the date of approval.

   A. The general terms and conditions under which the preliminary approval was granted will not be changed.

B. The said applicant may submit on or before the expiration date the whole or part or parts of said plat for final approval.

170.06 FINAL PLAT PROCEDURE. The following procedure shall govern the submission, consideration, and approval of final plats.

1. Improvements Installed. Before consideration of a final subdivision plat, the subdivider shall have installed the improvements required under Section 170.11, or the Commission shall require posting of adequate performance guarantees with the administrative officer to assure the installation of the required improvements within one year after final approval of the plat.

2. Plat Submitted. The final plat or in the case of large subdivisions, a final plat of the area covered by the approved preliminary plat, shall be submitted to the administrative officer. The original tracing, four prints and four copies of the application form for final approval shall be submitted to the administrative officer at least 14 days prior to the date of a regular Commission meeting at which action is sought. Unless a preliminary plat is approved without changes, the final plat shall have incorporated all changes or modifications required by the Commission. The final plat shall be accompanied by a statement from the engineer that the engineer has received a map showing all utilities in exact location and elevation, identifying those portions already installed, those to be installed and that the subdivider has complied with one or a combination of the following:

A. Installed all improvements in accordance with the requirements of these regulations; or

B. A performance bond, approved by the City Attorney, has been posted with the administrative officer in sufficient amount to assure the completion of required improvements within one year after final approval of the plat. The amount of the bond shall be not less than the estimated cost of the improvements as determined by a registered professional engineer acting for the subdivider. The amount of bond shall also have the approval of the Commission.

3. Commission Action. The administrative officer shall immediately refer two copies of the plat to the Secretary of the Commission and one copy to the engineer upon receipt of a final plat. The Commission shall act upon the final plat within 30 days after the date of submission for final approval to the administrative officer.

4. Commission Approval and Council Action. If approval is given, the Commission shall note such approval, on the plat over the signature of both the Chairperson and Secretary of the Commission, and the Commission shall then forward the plat to the Council for final approval and acceptance of all streets, alleys, ways, easements, parks or areas preserved for or dedicated to the public.

5. Commission Disapproval and Council Action. If the Commission does not recommend approval of the final plat of a subdivision, the Council may approve the plat and accept all streets, alleys, ways, easements, parks or areas preserved for or dedicated to the public by unanimous favorable vote by the entire membership of the Council.

6. Filing of Approved Plat. Upon final approval, copies of the approved final plat shall be filed with the following:

A. Planning and Zoning Commission.

B. Administrative officer.

C. Mayor.

7. Recording of Final Plat. After final approval by the Council, the Commission shall notify the owner or the subdivider, and the subdivider shall cause plat to be filed with the County Recording officer as provided by the Code of Iowa; and shall file satisfactory evidence of such recording in the office of the administrative officer before the City shall recognize the plat being in full force and effect.

170.07 PRE-APPLICATION PLANS AND DATA.

1. General Information. General subdivision information shall describe or outline the existing conditions of the site and proposed development as necessary to supplement the drawings required below. This information may include data on existing covenants, land characteristics, and available community facilities and utilities; and information describing the subdivision proposal such as number of residential lots, typical lots width and depth, business areas, playground, park areas and other public areas, proposed protective covenants and proposed utilities and street improvements.

2. Location Map. A location map shall show the relationship of the proposed subdivision to existing community facilities which serve or influence it. Such map shall include the development name and location; main traffic arteries; public transportation lines; shopping areas; elementary and high schools; parks and playgrounds; principal places of employment; other community features such as railroad stations, airports, hospitals and churches; title, scale, north arrow, and date.

3. Sketch Plans. A sketch plan on a topographic survey map (if available) 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 free-hand pencil sketch made directly on a print of the topographic survey. In any event, the sketch plan shall include either the existing topographic data listed in subsections 5 and 6 of Section 170.08 below or such of these items of data as the Commission determines necessary for its consideration of the proposed sketch plan.

170.08 PRELIMINARY PLAT REQUIREMENTS. The preliminary plat shall be drawn on suitable tracing paper or other material of suitable quality with black ink or graphite pencil at a scale of 100 feet to one inch or larger. It shall show all the following existing and proposed data and conditions:

1. Date, scale and north arrow.

2. Location of the plat by quarter section, section, township and range, and any other necessary legal description to describe the boundary lines of the proposed subdivision.

3. Approximate total area of proposed subdivision.

4. Names and addresses of owner or subdivider of tract and engineer or person preparing plat and information.

5. Topographic map, referenced to City datum, of the area showing contours as follows: two-foot intervals where slope is seven percent to 15 percent; 10- or 20-foot intervals where slope is greater than 15 percent. All areas of the subdivision to be platted with a slope of greater than 25 percent shall be clearly indicated.

6. Water elevations of adjoining lakes, rivers, and streams at date of survey and their approximate high and low water elevations. All elevations shall, when possible, refer to established City datum.

7. Location and names of adjacent subdivisions and owners of adjoining parcels of unsubdivided land.

8. Present restricted residence district classification of land to be subdivided and all adjacent lands.

9. Location, widths and names of all existing, platted or dedicated streets, easements, railroad and utility rights-of-way, parks, water courses, drainage ditches, permanent buildings and structures, section and township lines and such other data as may be required by the Commission within the area being subdivided and within 100 feet of the exterior boundaries thereof.

10. Location, size and flow elevations, to City datum, of existing and proposed sanitary and storm sewer; location and size of water main, culverts and other underground facilities within the area being subdivided and within 100 feet of the exterior boundaries thereof, also to include location of gas lines, fire hydrants, electric and telephone lines or poles, and street lights.

11. Lengths and bearings of the exterior boundaries of land being subdivided.

12. The location and width and name of all proposed streets, and rights-of-ways and easements, whether public or private, for public and private utilities. Street names shall be identical to existing street names if the proposed street is an extension of the existing street. Public streets shall be required in all subdivisions.

13. Approximate dimensions of all lots.

14. Approximate radii of all curves and lengths of all tangents.

15. Approximate finish grades of all streets and surface drainage facilities with spot elevations given in critical areas, at every proposed street intersection and where severe cuts or fills are proposed.

16. Approximate location and area of all property to be dedicated for public use or reserved by deed covenant for use by all property owners in the development, with a statement of the conditions of such dedication or reservation. If the facility or property is to be privately built, but publicly used or owned, required inspections will determine compliance with the regulations. ***(Ord. 331 – Oct. 18 Supp.)***

17. Where public water supply and sanitary sewers are reasonably available, the subdivider shall connect to these systems. Where the public systems are not available, the subdivider shall indicate the type of water supply and sewage treatment proposed to be provided.

18. A feasibility report of community water and sewage facilities where such facilities are to be incorporated in the final plat.

19. Percolation test results, minimum of one per acre, together with soil borings, a minimum of one for every acre, to indicate depth of water table and rock formation, when requested by the Commission.

20. A soil analysis obtainable from the United States Department of Agriculture, Soil Conservation Service, when requested by the Commission.

170.09 FINAL PLAT REQUIREMENTS. The final plat shall be drawn in ink or tracing cloth on sheets no larger than 24 inches by 36 inches, and shall be at a scale of 100 feet to one inch or larger. Where necessary, the plat may be on several sheets accompanied by an index sheet showing the entire subdivision. For large subdivisions, the final plat may be submitted for approval progressively in contiguous sections satisfactory to the Commission. The final plat shall show the following:

1. All information required and shown on the preliminary plat, as required by subsections 1 through 6 of Section 170.08 of this chapter.

2. Accurate angular and lineal dimensions for all lines, angles, and curvature used to describe boundaries.

3. True angles and distances to the nearest street lines or official monuments.

4. Lines of adjoining streets and alleys, with their widths and names.

5. Township, County and section lines accurately tied to the lines of the subdivision by distance and angles.

6. Radii, arcs and chords, points of tangency, central angles for all curvilinear streets and radii for all rounded corners.

7. Exact dimensions of all lots.

8. An identification system for all lots and blocks using consecutive numbers.

9. Exact location and area of all land to be dedicated for public use or reserved by deed covenant for common use of all property owners with the purpose indicated thereon. All lands dedicated for public use, other than streets, shall be marked "Dedicated to Public." All protective or deed covenants or private restrictions shall be shown on the plat or correctly referenced.

10. Building setback lines as established by the Zoning Ordinance or deed restrictions.

11. Where community type water and sewage facilities are not available, a statement that any lot sold or transferred will have a minimum width and area equal to that shown on the plat shall be shown on the plat or correctly referenced.

12. The following material shall also be submitted with the final plat:

A. A statement by the proprietors and their spouses, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgments of deeds. The statement by the proprietors may also include a dedication to the public of all lands within the plat that are designated for streets, alleys, parks, open areas, school property, or other public use, if the dedication is approved by the Council;

B. A statement from the mortgage holders or lienholders, if any, that the plat is prepared with their free consent and in accordance with their desire, signed and acknowledged before an officer authorized to take the acknowledgment of deeds. An affidavit and bond as provided for in Section 354.12 of the Code of Iowa may be recorded in lieu of the consent of the mortgage or lienholder. When a mortgage or lienholder consents to the subdivision, a release of mortgage or lien shall be recorded for any areas conveyed to the City or dedicated to the public.

C. When a proposed entrance of the subdivision is onto a controlled access street or road, where such control is exercised by the Iowa State Highway Commission, the approval of such body shall accompany the final plat.

D. Certification by a licensed land surveyor that the plat resembles a survey made by said surveyor and that monuments and markers shown thereon exist as shown.

E. An opinion by an attorney-at-law who has examined the abstract of title of the land being platted. The opinion shall state the names of the proprietors and holders of mortgages, liens or other encumbrances on the land being platted and shall note the encumbrances, along with any bonds securing the encumbrances. Utility easements shall not be construed to be encumbrances for the purpose of this section.

F. A certificate of the County Treasurer that the land is free from certified taxes and certified special assessments or that the land is free from certified taxes and that the certified special assessments are secured by bond in compliance with Section 354.12 of the Code of Iowa.

G. A resolution and certificate for approval by the Council and for signatures of the Mayor and Clerk.

H. A certificate of approval by the Zoning Commission.

170.10 SUBDIVISION DESIGN STANDARDS. The following design requirements shall be and complied with by all subdivisions.

1. Streets. The arrangement, character, extent, width, grade, and location of all streets shall conform to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

2. Relation to Existing Streets. The arrangement of streets in a subdivision shall either:

A. Provide for the continuation or appropriate projection of existing principal streets in surrounding areas, or

B. Conform to a plan for the neighborhood approved or adopted by the Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

3. Minor Streets. Minor streets shall be so laid out that their use by through traffic will be discouraged.

4. Arterial Streets. Where a subdivision abuts or contains an existing or proposed arterial street, the Commission may require marginal access streets, reverse frontage with screen planting contained in a non-access reservation along the rear property line, deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of the residential or other proposed properties and to afford separation of through and local traffic.

5. Railroad or Limited Access Highway. Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Commission may require a street approximately parallel to and on each side of such

right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

6. Reserve Strips Prohibited. Reserve strips controlling access to streets shall be prohibited except where control is definitely placed with the City under conditions approved by the Commission.

7. Street Jogs. Street jogs with centerline offsets of less than 125 feet shall be avoided.

8. Curves on Arterial and Collector Streets. A tangent at least 100 feet long shall be introduced between reverse curves on arterial and collector streets.

9. Curves. When connecting street lines deflect from each other at any point by more than 10 degrees, they shall be connected by a curve with a radius adequate to insure a sight distance of not less than 100 feet for minor and collector streets, and of such greater radii as the City Engineer shall determine for special cases.

10. Intersections. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 60 degrees. More than two streets intersecting at the same location shall be prohibited.

11. Corners. When the Commission finds it necessary for reasons of safety and the protection of property, property lines at street intersections shall be rounded with a radius of 15 feet or they may permit comparable chords in lieu of the rounded corner.

12. Right-of-Way Widths. Street right-of-way widths shall be not less than as follows:

Street Type	Right-of-Way	Minimum Width of Roadway Surface
State Arterial	Requirements set by Iowa State Highway Commission	
Community Arterial	80 feet	31 feet b.b.
Collector	66 feet	31 feet b.b.
Minor	66 feet	28 feet b.b.
Cul-de-sac	66 feet	28 feet b.b.
Marginal Access	66 feet	28 feet b.b.
NOTE: On-street parking restrictions for minor, cul-de-sac and marginal access streets are as follows: Parking is permitted on even-numbered side of north/south streets and on odd-numbered side of east/west streets. Parking restrictions on community arterial, collector and/or other 31-foot streets shall be set by the Council.		

13. Half Streets. Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations, and where the Commission finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

14. Dead-End Streets. Dead-end streets, designated to be so permanently, shall not be longer than 300 feet except that the Commission may approve a maximum length not to exceed 1,000 feet due to property limitations. Such streets shall be

provided at the closed end with a turnaround having an outside roadway diameter of at least 80 feet, and a street property line diameter of at least 100 feet. The Commission may approve a "T" or "Y" type turnaround in lieu of the circular turnaround.

15. Street Names. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to the approval of the Commission.

16. Granular Paving Adjacent to Subdivision. [†]

A. A developer may be required to extend or expand existing off-site public infrastructure as necessary to fully improve a proposed subdivision, or the City Council may, at its sole discretion, require a proposed subdivision to be delayed until such extension or expansion can be funded and constructed.

B. Costs; responsibilities. Developers shall be fully responsible for the entire costs of improving all collector and local streets within a subdivision, and for the costs of paving a width of not less than 15.5 feet of roadway along all arterial street frontages by providing a cash escrow to be held in a city account or by posting surety therefore, and turn lanes that serve or will serve the subdivision whether located within the subdivision or on an arterial street.

(Subsection 16 – Ord. 331 – Oct. 18 Supp.)

17. Maximum Street Grades. Street grades, wherever feasible, shall not exceed the following, with due allowance for reasonable vertical curves:

Street Type	Percent Grade
Arterial	6%
Collector	8%
Minor	8%
Cul-de-sac	8%
Marginal Access	8%

18. Minimum Street Grades. No street grade shall be less than 0.5 percent where drainage is carried within the traveled roadway.

19. Alleys Required. Alleys shall be provided in commercial and industrial districts except that the Commission may waive this requirement where other definite and assured provision is made for service access, such as off-street loading, unloading, and parking consistent with and adequate for the uses proposed.

20. Alleys Prohibited. Alleys shall not be permitted in a Residential District unless deemed necessary by the Commission.

21. Width of Alleys. The minimum width of an alley shall be 20 feet.

22. Alley Intersections. Alley intersections and sharp changes in alignment shall be avoided; but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

23. Dead-end Alleys. Dead-end alleys shall be avoided where possible; but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Commission.

[†] Ordinance 331 added 170.10(16), the remaining subsections were renumbered.

24. Easements. Easements across lots or centered on rear or side lot lines shall be provided for utilities and shall be not less than 12 feet in width on each side of all rear lot lines and side lot lines where necessary for poles, wires, conduits, storm sewer and sanitary sewers, gas, water and heat mains. Greater width easements may be required in some cases.

25. Watercourse and Drainage Easements. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse, and such further width or construction or both as will be adequate for the purpose. Parallel streets or parkways may be required in connection therewith. If it is deemed advisable by the Commission, such watercourse or drainage way may be re-established to conform with the proposed street pattern, in which case suitable storm drainage facilities shall be installed as designed and established by a registered professional engineer for the subdivider.

26. Blocks.

A. General Requirements. The lengths, widths and shapes of blocks shall be determined with due regard to:

(1) Provision of adequate building sites suitable to the special needs of the type of use contemplated.

(2) Requirements as to lot sizes and dimensions.

(3) Needs for convenient access, circulation, control and safety of street traffic.

(4) Limitations and opportunities of topography and other natural features.

B. Length. Block lengths shall not exceed one thousand three hundred twenty (1,320) feet, or be less than three hundred (300) feet. For unusual circumstances the Commission may grant a variance to these distance requirements.

C. Crosswalks. Pedestrian crosswalks, not less than ten (10) feet wide, shall be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation and other community facilities.

27. Lots.

A. General. The lot size, width, depth, slope and orientation, and the minimum setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

B. Dimensions. Lot dimensions shall be as follows:

(1) Residential lots where served by public sewer shall be not less than 80 feet wide at the building setback line or less than 8,000 square feet in area.

(2) Residential lots where not served by public sewer shall be not less than 100 feet wide at the building setback line or less than 14,000 square feet in area.

C. Commercial and Industrial Lots. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street service and parking facilities required by the type of use and development contemplated.

D. Street Access. The subdividing of the land shall be such as to provide, by means of a public street, each lot with satisfactory access to an existing public street.

E. Large Lot Subdivisions. Whenever the area is divided into lots containing one or more acres and there are indications that such lots will eventually be subdivided into smaller 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 and functional arrangement of smaller lots.

F. Double or Reverse Frontage. Double frontage and reverse frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least 10 feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

G. Side Lines. Side lot lines shall be substantially at right angles or radial to street lines. Side lines of lots formed by radial projections shall form a lot having not less than 20 feet across the rear property line.

H. Corner Lots. Corner lots for residential use shall have additional width to permit appropriate building setback from an orientation to both streets.

28. Public Sites and Open Spaces. Where a proposed park, playground or other public use is located in whole or in part in a subdivision, the Commission may require that such area be reserved or dedicated to the City in those cases in which the Commission deems such requirements reasonable.

29. Utilities. The source of domestic water supply and type of sewage disposal shall accompany each plat for the information of the Commission and the Council.

30. Outlots shall be prohibited. ***(Ord. 331 – Oct. 18 Supp.)***

170.11 REQUIRED IMPROVEMENTS.

1. Monuments.

A. Where Required. Durable iron monuments shall be placed at all lot and block corners, at all angle points in any line, at each end of all curves, and at such other points as may be required by the Commission.

B. Thirty-inch Monuments. The external boundaries of the subdivision, block corners, angle points and ends of curves shall be monumented in the field by iron rods or pipes at least 30 inches long and one and one-half (1½) inches in diameter.

C. Twenty-four-inch Monuments. All lot corners and other points not referred to in paragraph B above shall be monumented in the field by monuments at least 24 inches long and one inch in diameter.

D. Set Flush. All monuments shall be properly set flush with the ground by a licensed land surveyor.

2. Street Construction.

A. Street Grading and Paving. The subdivider shall grade and improve all streets within the subdivision to the full right-of-way width of the street. Roadway pavement shall be either full width Portland cement concrete with integral curbs or 30-inch Portland cement concrete curb and gutter sections with full depth asphaltic concrete surface. Pavement location shall be concurrent with the entire frontage of property or at location approved by the Commission. Pavement thickness and specification shall be approved by the Commission. ***(Ord. 331 – Oct. 18 Supp.)***

B. Roadway Width. The width of the roadway shall conform to the requirements of its functional classification as specified in subsection 170.10(12).

C. Alley Paving. Alleys shall be paved with either Portland cement concrete or full depth asphaltic concrete to their full width in accordance with specifications approved by the Commission.

D. Sod or Seeding. All streets shall be sodded or seeded with grass in a manner which shall provide suitable protection from erosion over that area lying between the right-of-way lines and back of street curbs.

E. Profiles and Drainage. Street profiles and the necessary drainage plans to serve the area shall be determined and designed by a registered professional engineer for the subdivider. All construction of such facilities shall be in accordance with such profiles and plans and shall be subject to the recommendations, supervision and approval of the Commission.

3. Sidewalk Construction. The subdivider shall install or cause to be installed sidewalks on each side of surfaced streets (for the full length of blocks). Sidewalks shall be a minimum of four feet wide and located in the street right-of-way with the outer edge one foot from the right-of-way line.

4. Water Facilities.

A. Where a public water main is accessible, the subdivider shall install adequate water facilities (including fire hydrants) according to the specifications of the City's engineer and Municipal Water Department. Proposed locations of fire hydrants shall be approved by the City's engineer and the Municipal Water Department.

B. If a public utility system is not available, individual wells may be used provided that construction is in accordance with Iowa State Department of Health standards and that samples submitted to the Iowa State Department of Health are approved for human consumption.

5. Sewer Facilities.

A. Public Sewer. Where a public sanitary sewer is accessible, the subdivider shall install adequate sanitary sewer facilities (including the

installation of house service lines to the street right-of-way lines) subject to the specifications of the City's engineer.

B. Installation of Pumping Stations. Where sewage pumping stations are required, the location will be determined by the City Council. The subdivider will install the lift station together with all required appurtenances and force main. The subdivider may be reimbursed in the proportion of which the area outside the subdivision, but served by the pumping station, bears to the total area served by the pumping station.

C. Existing Pumping Stations. If the subdivider connects to a sewer leading to a sewage pumping station, the subdivider will be required to pay to the City the pro rata share of the subdivider of the cost of the pumping station and force main according to the ratio of area the subdivision has to the total area served by the sewage pumping station.

D. Septic Tanks. Where a public sanitary sewer is not available, the minimum lot areas shall conform to the requirements of subsection 170.10(26)(B) of this chapter. The subdivider shall make or cause to be made percolation tests of the soil as required by the Commission. These tests shall be the basis for design of individual sanitation facilities.

E. Future Connections. In the future, however, if a public sanitary sewer is accessible and a sanitary sewer is placed in a street, alley or easement abutting upon property, the owner thereof shall be required to connect to said sewer for the purpose of disposing of waste; and it shall be unlawful for any such owner or occupant to maintain upon such property an individual sewage disposal system.

6. Storm Water. When a public storm sewer is accessible, the developer shall install storm sewer facilities. Where no outlets are available within a reasonable distance, adequate provision shall be made for disposal of storm water. All storm sewer design and construction shall be done in accordance with the standards and specifications of the City.

7. Street Lights. Street lights shall be installed to illuminate all roadways and sidewalk surfaces as determined by the Council in accordance with design and specification standards.

8. Utilities. It shall be the responsibility of the subdivider to contact utility companies to determine the availability of services and to make the necessary arrangements for their installation within necessary right-of-way and easements. Public water, storm drainage and sanitary sewer or septic system plans shall be designed by a registered professional engineer for the subdivider. The facilities shall be constructed in accordance with such plans prior to construction of buildings upon the lots, and shall be subject to supervision and approval by the Council.

170.12 VARIANCES. Variances from the strict compliance with these regulations may be granted in accordance with the following:

1. Hardship. Where the Commission finds that extraordinary hardships may result from strict compliance with these regulations, it may vary the regulations so that substantial justice may be done and the public interest secured, provided that such variation will not have the effect of nullifying the intent and purpose of this chapter.

2. Large Scale Development. The standards and requirements of these regulations may be modified by the Commission in the case of a plan and program for a self-contained, complete community or a neighborhood unit, which would in the judgment of the Commission provide adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated; and which would also provide such covenants or other legal provisions as will assure conformity to and achievement of the plan.

3. Conditions. In granting variances and modifications, the Commission shall weigh the benefits or hardships against the general standards and objectives of this chapter, and may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified.

170.13 AMENDMENTS. Any regulations or provisions of this chapter may be changed and amended from time to time by the Council with such amendment being initiated by the Council, by a motion of the Commission, or by a petition by any person, provided that such changes or amendments shall not become effective until they have first been reviewed and a recommendation has been made thereon by the Commission; and further provided, a public hearing shall be held by the Council, public notice of which shall be given in the legal newspaper of the City not less than four or more than 20 days before the date of hearing.

170.14 CONFLICT AND VALIDITY. Wherever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive or that imposing the higher standard shall govern. Should any section, sentence, clause or provision of this chapter be declared by a court to be invalid, the same shall not affect the validity of this chapter as a whole or the remaining portions of this chapter.

170.15 VIOLATION; PENALTY. Any person who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this chapter shall be in violation of this Code of Ordinances. Each day that a violation is permitted to exist shall constitute a separate offense.

170.16 DEVELOPMENT APPLICATION PARK LAND DEDICATION.

1. This Park Land Dedication section is effective for any plat that has not received final approval prior to adoption.

2. For purposes of this section the term “development application” shall mean any presentation or filing with the City for residential development purposes of any subdivision of land over which the City has subdivision review and approval authority, or the filing or presentation of any site plan, PUD, PUD specific plan, permitted conditional use plan or development, subdivision master plan or area development plan, over which the City has approval authority or a declaration of horizontal property (condominium) regime pursuant to Iowa Code Chapter 499B.

3. All persons making a development application shall dedicate to the City, within the land covered by the development application, land for park and recreational purposes sufficient to meet the requirements of this section.

4. In each tract of land covered by a development application, there shall be reserved and dedicated to public use ten (10) acres of land for park purposes for each one thousand (1,000) people, based upon the projected population of the completed development application as calculated in accordance with this section. Such dedication shall be prorated to the amount indicated by the projected population to the

nearest one thousand (1,000) square feet of land to be dedicated, but in any event, no dedication of land for park use shall contain a total for park usage of less than ten thousand (10,000) square feet of land so dedicated. For purposes of this section, property subject to a horizontal property condominium regime under Iowa Code Chapter 499B shall be treated as single-family detached.

5. For purposes of this section, population in the completed area covered by the development application will be determined by multiplying the number of housing units projected in the area covered by the development application for each use category times the anticipated average per unit as given below. The quantity calculated for each residential type shall be added together and the sum shall be the projected population for purposes of the development application. For the purposes of this section, the following population estimates per residential type will be used:

A. Single-family detached: 2.90 people.

B. Single-family attached: 2.59 people.

C. Multi-family unit: 1.82 people.

6. The City may require that all land dedicated under this section be configured or located to optimize aggregations of land and thus may require that the dedicated land be adjacent to the land affected by other development applications or to otherwise maximize usefulness of the land in accordance with the City's Comprehensive Plan.

7. This section shall not apply to any development application which does not include residential development, provided, however, to the extent any development application includes residential uses then dedication of park land shall be required to the extent determined in accordance with this section.

8. For purposes of this section the water area of ponds, streams, retention basins, detention basins and other bodies of water, or the land area of buffer park easements and site plan open space requirements, shall not be included in determining any area dedicated for park purposes.

9. The dedication of land for park purposes shall include dedication of a corridor or point of connection for public pedestrian access, the areas of which shall be included in determining compliance with this section.

10. The required land dedication under this section shall be reduced when the person making the development application provides public access by easement to recreational facilities, playgrounds, unobstructed open spaces, ball fields, soccer fields, tennis courts, basketball courts, volleyball courts, picnic shelters, recreational trails and other similar non-duplicated recreational facilities which have been (or will be) constructed and maintained by the applicant. There shall not be any credit for swimming pools, clubhouses, and other similar facilities. In order to determine the credit, the City shall ascertain the fair market value of the land required to be dedicated under this section and from such value subtract the cost of the recreational facilities constructed by the applicant and provided under this section. The person making the development application shall then only be required to dedicate land equal in value to the remainder.

11. As an alternative to dedication under this section, any person filing a development application may provide jointly with other persons for the dedication of land in an amount at least equal to the amount required under this section, at a location

which is not part of the land for which approval is sought, provided such alternative is within the same neighborhood park area as the land for which a development application has been made, that the alternative jointly provided will provide for a park with a total land area of at least five (5) acres, consistent with the Comprehensive Plan and that such alternative dedication of land is or has actually been dedicated to the City and has been accepted by the City for use in accordance with the Comprehensive Plan.

12. Where application of the formula set forth in subsection 4 of this section results in a dedication requirement of less than ten thousand (10,000) square feet the person making or filing the development application may elect to dedicate ten thousand (10,000) square feet of land or fulfill their obligation by participating in an option provided by subsection 10 of this section, but such alternative participation shall be based upon the actual calculation under subsection 4 of this section and not upon the equivalent of ten thousand (10,000) square feet of land.

13. Subsections 10 and 11 of this section notwithstanding, any entity required to comply with this section may present an alternate plan which meets the purposes of this section as a means of complying herewith. It will be the burden of the entity presenting such plan to establish that such plan meets the purposes of this section. Any such plan shall be first reviewed by the Plan and Zoning Commission. Any alternate proposal must directly and proportionately benefit the development. A plan may include a payment in lieu of land dedication equal to the fair market value of the land to be dedicated. Such payment may be used only for park and recreation facility purposes consistent with the Comprehensive Plan.

14. This section shall not apply to any development application containing three (3) or fewer single-family residential units. A person making or filing a development application shall not divide land into separate plats in order to seek a waiver under this provision. Where a development application is made for multiple contiguous tracts within any two (2) years the City may treat all the development applications as one for purposes of this section.

15. No declaration of a condominium regime and under Iowa Code Chapter 499B, nor any conversion of an apartment to a condominium under Iowa Code Section 499B.3 shall be completed before the person or entity filing the declaration shall have complied with the land dedication requirements of this chapter.

16. If any subsection or provision of this section is held invalid by a court of competent jurisdiction, such holding shall not affect the validity of any other provisions of this section which can be given effect without the invalid portion or portions and to this end each subsection and provision of this section is severable.

17. Any person making or filing a development application or any person, entity, or developer affected by any decision made by any department acting under this chapter, may appeal to the City Council by filing notice of appeal with the City Clerk and a filing fee of one hundred dollars ($100.00) payable to the City of De Soto to be credited to the general fund of the City. Such appeal shall be taken within ten (10) days from the decision of the department acting under this chapter and shall set out in detail the reasons and grounds for the appeal. The City Clerk shall forthwith transmit to the City Council all papers constituting the record upon which the action appeal is taken. An appeal stays all proceedings in furtherance of the appeal.

18. The City Council shall upon the filing of an appeal fix a reasonable time for a hearing, giving public notice thereof as well as due notice to the parties in interest. All interested persons may offer oral or written testimony at the public hearing on the appeal. A vote of three (3) members of the City Council may affirm, modify, or reverse any decision of any department acting under this chapter.

19. Any person, entity, or developer aggrieved by any appeal decision of the City Council may within thirty (30) days from the date of the City Council rendering a decision, appeal therefrom to the district court of Dallas County, Iowa, in accordance with the rules of civil procedure, division XIV, entitled "certiorari."

(Section 170.16 – Ord. 331 – Oct. 18 Supp.)